

Calendar No. 349

103D CONGRESS
2D SESSION

S. 1427

[Report No. 103-222]

A BILL

To provide the necessary authority to manage the activities in Antarctica of United States scientific research expeditions and United States tourists, and to regulate the taking of Antarctic marine living resources, and for other purposes.

JANUARY 25, 1994

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

AUGUST 6 (legislative day, JUNE 30), 1993

Mr. KERRY (for himself and Mr. HOLLINGS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JANUARY 25, 1994

Reported by Mr. HOLLINGS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To provide the necessary authority to manage the activities in Antarctica of United States scientific research expeditions and United States tourists, and to regulate the taking of Antarctic marine living resources, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Antarctic Scientific
3 Research, Tourism, and Marine Resources Act of 1993”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) For well over a quarter of a century, sci-
7 entific investigation has been the main activity of
8 the Federal Government and United States nationals
9 in Antarctica.

10 (2) More recently Antarctica has become of in-
11 creasing interest to American tourists.

12 (3) As the lead civilian agency in Antarctica,
13 the National Science Foundation has long had the
14 responsibility of ensuring that United States sci-
15 entific expeditions and tourism, and their supporting
16 logistics operations, are conducted with an eye to
17 preserving the special values of the Antarctic region.

18 (4) The National Science Foundation, in close
19 cooperation with other scientific agencies, has grant-
20 ed many scientific and other permits under the Ant-
21 arctic Conservation Act of 1978, which implemented
22 the Agreed Measures for the Conservation of Ant-
23 arctic Fauna and Flora adopted under the auspices
24 of the Antarctic Treaty.

25 (5) The Antarctic Marine Living Resources
26 Convention Act of 1984 and the Antarctic Protec-

1 tion Act of 1990 reinforce this stewardship objective
2 by assigning the Under Secretary of Commerce for
3 Oceans and Atmosphere the duty to conserve the liv-
4 ing and nonliving marine resources of the Antarctic
5 region.

6 (6) The recently concluded Protocol on Envi-
7 ronmental Protection to the Antarctic Treaty, which
8 supplants the Agreed Measures on Fauna and Flora,
9 is the latest step in safeguarding Antarctica as a
10 natural reserve for science.

11 (7) Effective implementation of the Protocol for
12 the United States will be best and most efficiently
13 accomplished by keeping the National Science Foun-
14 dation in its lead agency role in managing scientific
15 activities in Antarctica, and by assigning other roles
16 to the Department of Commerce such as tourism
17 and resource regulation.

18 **SEC. 3. DEFINITIONS.**

19 In this Act, the following definitions apply:

20 (1) The term "Antarctica" means the area
21 south of 60 degrees south latitude.

22 (2) The term "Antarctic Treaty" means the
23 Antarctic Treaty signed in Washington, District of
24 Columbia, on December 1, 1959.

1 (3) The term “Director” means the Director of
2 the National Science Foundation.

3 (4) The term “minor or transitory impact”
4 means a minor or transitory impact as described in
5 Article 8 of the Protocol.

6 (5) The term “Protocol” means the Protocol on
7 Environmental Protection to the Antarctic Treaty,
8 done at Madrid on October 4, 1991, and all the
9 annexes thereto.

10 (6) The term “Secretary” means the Secretary
11 of Commerce.

12 (7) The term “vessel of the United States” has
13 the meaning provided in section 2101(46) of title
14 46, United States Code.

15 (8) The term “vessel subject to the jurisdiction
16 of the United States” means a foreign vessel that—

17 (A) is used to provide logistic support to
18 United States facilities in Antarctica; or

19 (B) transports passengers to, from, or in
20 Antarctica, if—

21 (i) there is an agreement between the
22 United States and the flag nation of the
23 foreign vessel regarding such transpor-
24 tation;

1 (ii) the flag nation of the foreign ves-
2 sel is a party to the Protocol and has re-
3 ferred the matter to the United States; or
4 (iii) the United States may exercise
5 jurisdiction over the vessel in accordance
6 with generally recognized principles of
7 international law.

8 **SEC. 4. REPRESENTATIVE, ARBITRATORS, AND INSPEC-**
9 **TORS.**

10 (a) REPRESENTATIVE TO COMMITTEE FOR ENVIRON-
11 MENTAL PROTECTION.—(1) The President shall appoint
12 an officer or employee of the United States as the United
13 States representative to the Committee for Environmental
14 Protection under the Protocol. Such officer or employee
15 shall have the technical qualifications required to serve in
16 such capacity.

17 (2) The person appointed under paragraph (1) shall
18 receive no additional compensation for serving as the
19 United States representative.

20 (b) ARBITRATORS.—(1) The Secretary of State shall
21 designate up to three arbitrators to serve on the Arbitral
22 Tribunal to be established under the Protocol.

23 (2) Each arbitrator shall be experienced in Antarctic
24 affairs, have a thorough knowledge of international law,

1 and have the highest reputation for fairness, competence,
2 and integrity.

3 ~~(c) INSPECTORS.—~~The Secretary of State shall des-
4 ignate persons to serve as inspectors under Article 14 of
5 the Protocol.

6 **SEC. 5. UNLAWFUL ACTIVITIES.**

7 It is unlawful for any person—

8 (1) to conduct an activity within Antarctica, in-
9 cluding tourism, scientific research, expeditions, and
10 logistical support to United States facilities and
11 bases, in a manner inconsistent with the Protocol;

12 ~~(2)~~ to violate a provision of this Act, a regula-
13 tion promulgated under this Act, or the terms of a
14 permit issued under this Act;

15 ~~(3)~~ to refuse to permit an authorized officer or
16 employee of the United States to board a vessel of
17 the United States or a vessel subject to the jurisdic-
18 tion of the United States for the purpose of conduct-
19 ing any search or inspection in connection with the
20 enforcement of this Act;

21 ~~(4)~~ to assault, resist, oppose, impede, intimi-
22 date, or interfere with an authorized officer or em-
23 ployee of the United States in the conduct of any
24 search or inspection described in paragraph ~~(3)~~;

1 (5) to resist a lawful arrest or detention for an
2 act prohibited by this section;

3 (6) to interfere with, delay, or prevent, by any
4 means, the apprehension, arrest, or detention of an-
5 other person, knowing that such other person has
6 committed any act prohibited by this section; or

7 (7) to attempt to commit an act prohibited by
8 this section.

9 **SEC. 6. PERMITS AND OTHER REGULATORY CONTROLS.**

10 (a) ~~ACTIVITIES REQUIRING PERMITS.~~—The following
11 activities shall not be conducted by any person in Antare-
12 tica, except in accordance with a permit issued in accord-
13 ance with this section:

14 (1) The conduct or support by a person of a
15 tourism expedition or other nongovernmental expedi-
16 tion by vessel or aircraft to, from, or within Antare-
17 tica.

18 (2) The operation of United States facilities
19 within Antaretica, including the construction or de-
20 commissioning of a United States base, building, or
21 airfield.

22 (3) An activity for which the Protocol requires
23 a permit.

24 (b) ~~APPLICATIONS.~~—(1) Applications for permits
25 under this section shall be made in such manner and form,

1 and shall contain such information, as the Director with
2 the concurrence of the Secretary shall prescribe by regula-
3 tion.

4 (2) The Director shall publish notice in the Federal
5 Register of each application for a permit under this sec-
6 tion. The notice shall invite the submission by interested
7 parties, within 30 days after the date of publication of the
8 notice, of written data, comments, or views with respect
9 to the application. Information received by the Director
10 as a part of an application shall be available to the public
11 as a matter of public record.

12 (c) ACTION ON CERTAIN PERMIT APPLICATIONS.—

13 (1) When the Director receives an application for a permit
14 under this section to undertake an action to which a law
15 administered by another Federal agency applies, the Di-
16 rector shall refer the application to such agency for review
17 and appropriate action.

18 (2) After receiving a copy of an application from the
19 Director under paragraph (1), the head of the Federal
20 agency concerned shall promptly determine and notify the
21 Director whether or not an action proposed in the applica-
22 tion would be prohibited by a law administered by such
23 agency or otherwise requires a permit or other authoriza-
24 tion under a law administered by such agency.

1 (3) If the head of such agency notifies the Director
2 that an action proposed in the application would be pro-
3 hibited by a law administered by such agency, the Director
4 may not issue a permit under this section with respect
5 to the proposed action.

6 (4) If the head of such agency notifies the Director
7 that an action proposed in the application requires a per-
8 mit or other authorization under a law administered by
9 such agency, the Director may not issue a permit under
10 this section with respect to the proposed action unless the
11 other required permit or authorization is issued by such
12 agency and a copy thereof is submitted to the Director.

13 (d) ISSUANCE OF PERMITS.—(1) As soon as prac-
14 ticable after receiving an application for a permit under
15 this section, or, in the case of an application to which sub-
16 section (c) applies, as soon as practicable after the applica-
17 ble requirements of that subsection are complied with, the
18 Director shall issue, or deny the issuance of, the permit.
19 Within 10 days after the date of the issuance or denial,
20 the Director shall publish notice of the issuance or denial
21 in the Federal Register, including a description of any per-
22 mit terms and conditions.

23 (2) Subject to paragraph (3), a permit may not be
24 issued under this section for an activity unless—

1 ~~(A)~~ the application for the permit contains suf-
2 ficient information to allow the Director to make a
3 prior assessment of, and informed judgment about,
4 the possible impacts of the proposed activity on Ant-
5 arctica, including cumulative impacts, and on the
6 value of Antarctica for the conduct of scientific
7 research;

8 ~~(B)~~ if required under section 7, an environ-
9 mental impact statement has been prepared, and cir-
10 culated by the Secretary of State in accordance with
11 the Protocol; and

12 ~~(C)~~ the proposed activity is consistent with this
13 Act and the Protocol.

14 ~~(3)~~ If the proposed activity is the expansion, con-
15 struction, or decommissioning of a United States base,
16 building, or air field, or the operation of a United States
17 base, building, or air field that was expanded or con-
18 structed after the date of enactment of this Act, the Direc-
19 tor may not issue a permit for that activity unless the Di-
20 rector determines that—

21 ~~(A)~~ the requirements of paragraph ~~(2)~~ are com-
22 plied with;

23 ~~(B)~~ there is a substantial national need for the
24 activity; and

1 ~~(C)~~ there is no practicable alternative that will
2 have a less adverse impact on the environment.

3 ~~(4)~~ If the proposed activity is a tourism activity, an
4 activity described in paragraph ~~(3)~~, or an introduction or
5 taking of an Antarctic marine living resource to which the
6 Antarctic Marine Living Resources Convention Act of
7 1984 applies, or if the Director determines that the activ-
8 ity will have more than a minor or transitory impact, the
9 Director may issue a permit only if the Secretary concurs.

10 ~~(5)~~ Activities regulated by an annex to the Protocol
11 and which are authorized under a permit issued by the
12 Director are considered to be in compliance with Article
13 3 of the Protocol.

14 ~~(e)~~ TERMS AND CONDITIONS OF PERMITS.—Each
15 permit issued under this section shall specify the period
16 during which the permit is valid and such other terms and
17 conditions as the Director ~~(or, if applicable, the head of~~
18 any Federal agency described in subsection ~~(c)~~) considers
19 appropriate to ensure that an action authorized under the
20 permit is carried out in a manner consistent with the Pro-
21 tocol, this Act, and the regulations promulgated under this
22 Act.

23 ~~(f)~~ JUDICIAL REVIEW.—~~(1)~~ Any applicant for a per-
24 mit may obtain judicial review pursuant to chapter 7 of
25 title 5, United States Code, of—

1 (A) the terms and conditions of a permit issued
2 by the Director under this section; or

3 (B) refusal of the Director to issue a permit.

4 Review under this subsection may be initiated by fil-
5 ing a petition for review in the United States district court
6 for the district wherein the applicant for a permit resides
7 or that is the principal place of business of the applicant,
8 or in the United States District Court for the District of
9 Columbia, within 60 days after the date on which the per-
10 mit is issued or denied.

11 (g) MODIFICATION, SUSPENSION, AND REVOCATION.—(1) The Director may modify, suspend, or revoke,
12 in whole or in part, a permit issued under this section—

14 (A) if there is a change in conditions which
15 makes the permit inconsistent with this Act or the
16 provisions of the Protocol, including Article 3 of the
17 Protocol;

18 (B) in order to make the permit consistent with
19 a change made after the date of issuance of the per-
20 mit to a regulation promulgated under section 9; or

21 (C) in a case in which there has been a viola-
22 tion of a term or condition of the permit, or of a
23 regulation promulgated under this Act or a provision
24 of this Act relating to that permit.

1 ~~(2) If the Director proposes a modification, suspen-~~
2 ~~sion, or revocation of a permit under this subsection, the~~
3 ~~permittee shall be afforded opportunity, after due notice,~~
4 ~~for a hearing by the Director with respect to the proposed~~
5 ~~modification, suspension, or revocation. If a hearing is re-~~
6 ~~quested, the action proposed by the Director shall not take~~
7 ~~effect before a decision is issued after the hearing, unless~~
8 ~~the proposed action is taken by the Director to protect~~
9 ~~the Antarctic environment, and its dependent and associ-~~
10 ~~ated ecosystems, or to prevent the loss of human life.~~

11 ~~(3) The Director shall publish notice of the modifica-~~
12 ~~tion, suspension, or revocation of a permit in the Federal~~
13 ~~Register within 10 days after the date of the Director's~~
14 ~~decision, including the reasons for the action.~~

15 ~~(h) PERMIT FEES.—The Director shall establish and~~
16 ~~charge fees for processing applications for permits under~~
17 ~~this section. The amount of the fees shall be commensu-~~
18 ~~rate with the administrative costs incurred by the Director~~
19 ~~in processing the application, but shall not include the~~
20 ~~costs to the Director of preparing an environmental im-~~
21 ~~pact statement that is required under section 7.~~

22 ~~(i) OTHER REGULATORY CONTROLS.—(1) The Ad-~~
23 ~~ministrator of the Environmental Protection Agency has~~
24 ~~overall responsibility for the implementation of the provi-~~

1 sions of Annex III of the Protocol. In carrying out the
 2 responsibility, the Administrator shall—

3 (A) prohibit incineration in Antarctica; and

4 (B) require that discharges into the sea in Ant-
 5 arctica after January 1, 1995, shall meet secondary
 6 treatment standards that are the same as those ap-
 7 plicable to the navigable waters of the United States.

8 (2) The Federal Facilities Compliance Act of 1992
 9 (Public Law 102–386; 106 Stat. 1505), including amend-
 10 ments by that Act to other provisions of law, and the
 11 Clean Air Act (42 U.S.C. 7401 et seq.) apply in Antarc-
 12 tica. Nothing in the preceding sentence shall be construed
 13 to affect the applicability of any other law in Antarctica.

14 **SEC. 7. ENVIRONMENTAL ASSESSMENT OF ACTIVITIES**
 15 **WITHIN ANTARCTICA.**

16 (a) **FEDERAL ACTIVITIES.**—(1) The head of each
 17 Federal agency which plans to conduct an activity in Ant-
 18 arctica (including the conduct of scientific research and
 19 the provision of logistical support to United States facili-
 20 ties), or plans to take action on an application for a permit
 21 to conduct such an activity, shall review the activity in
 22 accordance with Annex I of the Protocol. The agency head
 23 shall consult with the Director in conducting the review.
 24 If the agency head determines that the proposed activity
 25 will have less than a minor or transitory impact, and the

1 Director does not disagree, the activity may proceed if the
2 agency monitors the activity to verify that less than a
3 minor or transitory impact results from the activity.

4 (2) If the agency head determines that the proposed
5 activity will have at least a minor or transitory impact,
6 the agency shall prepare an environmental assessment.

7 (3) If the agency head determines, through the prepa-
8 ration of an environmental assessment or otherwise, that
9 a proposed activity will have more than a minor or transi-
10 tory impact, the agency shall prepare an environmental
11 impact statement on the proposed activity.

12 (4) If the Secretary, the Director, or the Adminis-
13 trator of the Environmental Protection Agency disagrees
14 with an agency determination under this section that a
15 proposed activity will have a minor or transitory impact,
16 or less, the matter shall be referred to the President for
17 review and no decision shall be taken to proceed with or
18 permit the activity until the President takes action. On
19 the basis of the review, the President may require the
20 agency head to prepare an environmental assessment or
21 environmental impact statement on the proposed activity.

22 (b) TOURISM AND OTHER NONGOVERNMENTAL AC-
23 TIVITIES.—The Secretary, in consultation with the Direc-
24 tor, shall issue regulations establishing procedures for the
25 environmental assessment of tourism and other non-

1 governmental activities conducted by any person within
2 Antarctica, consistent with the applicable law and the
3 Protocol.

4 (c) REVIEW.—No decision shall be taken to proceed
5 with or permit an activity for which an environmental im-
6 pact statement is prepared under this section until—

7 (1) the draft statement has been made publicly
8 available for at least 90 days and circulated by the
9 Secretary of State in accordance with Article 3 of
10 Annex I to the Protocol;

11 (2) there has been an opportunity for consider-
12 ation of the draft statement at a meeting of the Ant-
13 arctic Treaty Consultative Parties, except that no
14 decision to proceed with a proposed activity shall be
15 delayed through the operation of this paragraph for
16 more than 15 months from the circulation of the
17 draft statement;

18 (3) a final statement has been made publicly
19 available at least 60 days before the commencement
20 of the proposed activity; and

21 (4) monitoring procedures have been established
22 to assess and verify the impacts of the activity.

23 (d) EXCEPTION.—This section shall not apply in
24 cases of extreme emergency relating to the prevention of

1 the loss of human life or involving the safety of a ship
2 or aircraft.

3 **SEC. 8. MONITORING, INSPECTIONS, PLANS, REPORTS.**

4 (a) **MONITORING.**—The Director, in consultation
5 with the Secretary and the heads of other appropriate
6 Federal agencies, shall develop and implement a plan for
7 the monitoring of activities within Antarctica, including
8 the operation of United States facilities, scientific re-
9 search, and expeditions, that have more than a minor or
10 transitory impact.

11 (b) **INSPECTIONS.**—The Secretary of State may agree
12 on behalf of the United States to a system of observation
13 and inspection and to interim arrangements pending the
14 establishment of such a system pursuant to Article 14 of
15 the Protocol.

16 (c) **LAND-BASED CONTINGENCY PLANS.**—The Direc-
17 tor, in consultation with the heads of appropriate Federal
18 agencies, shall develop requirements for contingency plans
19 for response to incidents caused by persons within Antarc-
20 tica with potential adverse effects as described in Article
21 15 of the Protocol.

22 (d) **REPORTS.**—The Secretary of State shall—

23 (1) circulate to all parties to the Antarctic
24 Treaty, after notice and public comment, all inspec-
25 tion and compliance reports and all actions taken to

1 ensure compliance with the Protocol, including no-
2 tice of activities undertaken in cases of emergency;
3 and

4 (2) bring promptly to the attention of other
5 parties to the Antarctic Treaty all known incidents
6 of noncompliance with the Protocol by the nationals
7 of those parties.

8 **SEC. 9. REGULATIONS.**

9 (a) ~~IN GENERAL.~~—The Director, the Secretary, and
10 the Secretary of the department in which the Coast Guard
11 is operating, after consultation with appropriate officials,
12 shall promulgate such regulations as are appropriate to
13 implement this Act, taking into account the Antarctic
14 Treaty, any measures adopted thereunder, the Protocol,
15 and any awards issued thereunder by a competent
16 tribunal.

17 (b) ~~SCHEDULE FOR REGULATIONS.~~—The regulations
18 required by this section shall be promulgated within two
19 years after the date of enactment of this Act.

20 **SEC. 10. CIVIL PENALTIES.**

21 (a) ~~ASSESSMENT OF PENALTIES.~~—(1) Any person
22 who is found by the Director or the Secretary, after notice
23 and opportunity for a hearing in accordance with sub-
24 section (b), to have committed any act prohibited by sec-
25 tion 5 shall be liable to the United States for a civil pen-

1 alty. The amount of the civil penalty shall not exceed
2 \$25,000 for each violation. Each day of a continuing viola-
3 tion shall constitute a separate offense. The amount of any
4 civil penalty shall be assessed by the Director or the Sec-
5 retary by written notice. In determining the amount of the
6 penalty, the Director or the Secretary shall take into ac-
7 count the nature, circumstances, extent, and gravity of the
8 prohibited acts committed, and, with respect to the viola-
9 tor, the degree of culpability, any history of prior offenses,
10 ability to pay, and such other matters as justice may re-
11 quire, to the extent that the information is reasonably
12 available to the Director or the Secretary.

13 (2) The Director or the Secretary may compromise,
14 modify, or remit, with or without conditions, any civil pen-
15 alty which may be imposed under this section.

16 (b) HEARINGS.—Hearings for the assessment of civil
17 penalties under subsection (a) shall be conducted in ac-
18 cordance with section 554 of title 5, United States Code.
19 For the purposes of conducting any such hearing, the Di-
20 rector or the Secretary may issue subpoenas for the at-
21 tendance and testimony of witnesses and the production
22 of relevant papers, books, and documents, and may admin-
23 ister oaths. Witnesses summoned shall be paid the same
24 fees and mileage that are paid to witnesses in the courts
25 of the United States. In case of contempt or refusal to

1 obey a subpoena served upon any person pursuant to this
2 subsection, the district court of the United States for any
3 district in which the person is found, resides, or transacts
4 business, upon application by the United States and after
5 notice to the person, shall have jurisdiction to issue an
6 order requiring the person to appear before the Director
7 or the Secretary and either give testimony or produce doc-
8 uments or both, and any failure to obey such order of the
9 court may be punished by the court as a contempt thereof.

10 (c) REVIEW OF CIVIL PENALTY.—Any person against
11 whom a civil penalty is assessed under subsection (a) may
12 obtain review thereof in the appropriate district court of
13 the United States by filing a complaint in the court within
14 30 days after the date of the order and by simultaneously
15 sending a copy of the complaint by certified mail to the
16 Director or the Secretary, the Attorney General, and the
17 appropriate United States Attorney. The Director or the
18 Secretary shall promptly file in the court a certified copy
19 of the record upon which the violation was found or the
20 penalty imposed, as provided in section 2112 of title 28,
21 United States Code. The court shall set aside the findings
22 and order of the Director or the Secretary if the findings
23 and order are found to be unsupported by substantial evi-
24 dence, as provided in section 706(2)(E) of title 5, United
25 States Code.

1 ~~(d) RECOVERY OF CIVIL PENALTIES.—The Attorney~~
 2 General may seek to recover in any appropriate district
 3 court of the United States ~~(1) any civil penalty imposed~~
 4 under this section that has become a final and
 5 unappealable order and has been referred to the Attorney
 6 General by the Director or the Secretary, or ~~(2) any final~~
 7 judgment rendered under this section in favor of the
 8 United States by an appropriate court. In such action, the
 9 validity and appropriateness of the final order imposing
 10 the civil penalty shall not be subject to review.

11 ~~(e) PENALTIES UNDER OTHER LAWS.—The assess-~~
 12 ment of a civil penalty under subsection ~~(a)~~ for any act
 13 shall not be considered to preclude the assessment of a
 14 civil penalty for the act under any other law.

15 ~~(f) CONSULTATION.—The Director and the Secretary~~
 16 shall consult on an ongoing basis to ensure that the func-
 17 tions authorized under this section are carried out effec-
 18 tively and fairly.

19 **SEC. 11. CRIMINAL OFFENSES.**

20 ~~(a) OFFENSES.—A person is guilty of an offense if~~
 21 that person knowingly commits an act prohibited by
 22 section 5.

23 ~~(b) PUNISHMENT.—An offense under subsection (a)~~
 24 is punishable by imprisonment for not more than one year,
 25 or a fine under title 18, United States Code, or both.

1 (c) OFFENSES UNDER OTHER LAWS.—A conviction
2 under subsection (a) for any act shall not be considered
3 to preclude a conviction for the act under any other law.

4 **SEC. 12. ENFORCEMENT.**

5 (a) RESPONSIBILITY.—The provisions of this Act
6 shall be enforced by the Director, the Secretary, and the
7 Secretary of the department in which the Coast Guard is
8 operating. The Director and the Secretaries may utilize
9 by agreement, on a reimbursable basis or otherwise, the
10 personnel, services, and facilities (including aircraft and
11 vessels) of any other department or agency of the United
12 States in the performance of such duties.

13 (b) POWERS OF AUTHORIZED OFFICERS AND EM-
14 PLOYEES.—An officer or employee of the United States
15 who is authorized, by the Director, the Secretary, the Sec-
16 retary of the department in which the Coast Guard is op-
17 erating, or the head of a department or agency of the
18 United States which has entered into an agreement with
19 the Director or either Secretary under subsection (a), to
20 enforce the provisions of this Act, a regulation promul-
21 gated under this Act, or a permit issued under this Act
22 may, in enforcing such provision—

23 (1) secure, execute, and serve an order, war-
24 rant, subpoena, or other process, which is issued

1 under the authority of the United States or by a
2 court of competent jurisdiction;

3 ~~(2)~~ search without warrant a person, place, ve-
4 hicle, or aircraft subject to the jurisdiction of the
5 United States if there are reasonable grounds to be-
6 lieve that a person has committed an act prohibited
7 by section 5;

8 ~~(3)~~ with or without a warrant, board and
9 search or inspect a vessel of the United States or
10 vessel subject to the jurisdiction of the United
11 States—

12 ~~(4)~~ seize without warrant—

13 ~~(A)~~ an evidentiary item if there are reason-
14 able grounds to believe that a person has com-
15 mitted an act prohibited by section 5;

16 ~~(B)~~ any resource with respect to which
17 such an act is committed;

18 ~~(C)~~ a vessel of the United States (includ-
19 ing its gear, furniture, appurtenances, stores,
20 and cargo), a vessel subject to the jurisdiction
21 of the United States (including its gear, fur-
22 niture, appurtenances, stores, and cargo), a ve-
23 hicle, aircraft, or other means of transportation
24 that is subject to the jurisdiction of the United

1 States, used in connection with such an act;
2 and

3 ~~(D)~~ a gun, trap, net, or equipment used in
4 connection with such an act;

5 (5) Offer and pay rewards for information
6 which may lead to the apprehension of persons vio-
7 lating such provisions;

8 (6) make inquiries, and administer to or take
9 from, a person an oath, affirmation, or affidavit,
10 concerning a matter which is related to the enforce-
11 ment of such provisions;

12 ~~(7)~~ in coordination with the Secretary of the
13 Treasury, detain for inspection and inspect a pack-
14 age, crate, or other container, including its contents
15 and all accompanying documents, upon importation
16 into or exportation from the United States;

17 ~~(8)~~ make an arrest with or without a warrant
18 with respect to any act prohibited by section 5, if
19 such officer or employee has reasonable grounds to
20 believe that the person to be arrested is committing
21 such act in his or her presence or view or has com-
22 mitted such act;

23 ~~(9)~~ exercise enforcement powers conferred on
24 the officer or employee under a system of observa-
25 tion and inspection, or interim arrangements pend-

1 ing the establishment of such a system, which the
2 President has agreed to on behalf of the United
3 States; and

4 (10) exercise any other authority which the offi-
5 cer or employee is permitted by law to exercise.

6 (c) SEIZURE.—A property or item seized pursuant to
7 subsection (b) shall be held by any officer or employee of
8 the United States who is authorized by the Director, the
9 Secretary, or the Secretary of the department in which
10 the Coast Guard is operating, pending the disposition of
11 civil or criminal proceedings concerning the violation relat-
12 ing to the property or item or the institution of an action
13 in rem for the forfeiture of such property or item. Such
14 authorized officer or employee may, upon the order of a
15 court of competent jurisdiction, either release the seized
16 property or item to the wild or destroy the property or
17 item if the cost of maintenance of the property or item
18 pending the disposition of the case is greater than the le-
19 gitimate market value of the property or item. The author-
20 ized officer or employee and all officers or employees act-
21 ing by or under his or her direction shall be indemnified
22 from any penalties or actions for damages for so releasing
23 or destroying the property or item, unless the actions of
24 the officer or employee are grossly negligent or constitute
25 willful misconduct. The authorized officer or employee

1 may, in lieu of holding such property or item, permit the
2 owner or consignee thereof to post a bond or other satis-
3 factory surety.

4 (d) FORFEITURE.—(1) A vessel of the United States
5 (including its gear, furniture, appurtenances, stoves, and
6 cargo), or vessel, vehicle, or aircraft or other means of
7 transportation subject to the jurisdiction of the United
8 States, which is used in connection with an act prohibited
9 by section 5, and a gun, trap, net, and other equipment
10 used in connection with such act, shall be subject to for-
11 feiture to the United States.

12 (2) Upon the forfeiture to the United States of an
13 item described in paragraph (1), or upon the abandonment
14 or waiver of any claim to any such item, it shall be dis-
15 posed of by the Director, the Secretary, or the Secretary
16 of the department in which the Coast Guard is operating,
17 as the case may be, in such a manner, consistent with
18 the purposes of this Act, as may be prescribed by
19 regulation.

20 (e) APPLICATION OF LAWS.—All provisions of law re-
21 lating to the seizure, forfeiture, and condemnation of prop-
22 erty (including vessels) for violation of the customs laws,
23 the disposition of the property or the proceeds from the
24 sale thereof, and the remission or mitigation of the forfeit-
25 ure, shall apply to the seizures and forfeitures incurred,

1 or alleged to have been incurred, and the compromise of
2 claims, under the provisions of this Act, insofar as such
3 provisions of law are applicable and not inconsistent with
4 the provisions of this Act; except that all powers, rights,
5 and duties conferred or imposed by the customs laws may,
6 for the purposes of this Act, also be exercised or performed
7 by the Director, the Secretary, or the Secretary of the de-
8 partment in which the Coast Guard is operating, or by
9 such officers or employees of the United States as the Di-
10 rector, the Secretary, or the Secretary of the department
11 in which the Coast Guard is operating may designate.

12 (f) EMERGENCY POWERS.—Notwithstanding any
13 other provision of this Act, the Director, the Secretary,
14 or the Secretary of the department in which the Coast
15 Guard is operating, upon receipt of evidence that an activ-
16 ity by a person is presenting, or is threatening to present,
17 an imminent and substantial endangerment to the envi-
18 ronment of Antarctica or to the health and safety of per-
19 sons residing therein, may commence a civil action on be-
20 half of the United States in the appropriate district court
21 of the United States to immediately restrain that person
22 causing the activity to stop the activity or to take such
23 other action as may be necessary.

24 (g) INSPECTION FEES.—The Director, the Secretary,
25 and the Secretary of the department in which the Coast

1 Guard is operating may charge reasonable fees for the ex-
2 penses of the United States incurred in carrying out in-
3 spections and in transferring, boarding, handling, or stor-
4 ing evidentiary items seized or forfeited under this Act.

5 **SEC. 13. IN REM LIABILITY; JURISDICTION OF COURTS.**

6 (a) ~~IN REM LIABILITY.~~—A vessel of the United
7 States, or a vessel subject to the jurisdiction of the United
8 States, that is operated in violation of the Protocol, this
9 Act, or the regulations promulgated under this Act is lia-
10 ble in rem for any civil penalty assessed under section 10
11 or any fine imposed under section 11, and may be pro-
12 ceeded against in any district court of the United States
13 having jurisdiction. The penalty or fine shall constitute a
14 lien on the vessel which may be recovered in an action
15 in rem in the district court of the United States having
16 jurisdiction.

17 (b) ~~JURISDICTION OF COURTS.~~—The district courts
18 of the United States shall have jurisdiction over any case
19 or controversy arising under the provisions of this Act or
20 of any regulation or permit issued under this Act.

21 **SEC. 14. CITIZEN SUITS.**

22 (a) ~~AUTHORITY TO BRING CIVIL ACTIONS.~~—Except
23 as provided in subsections (c) and (d), any person may
24 commence a civil action on that person's own behalf—

1 (1) against any person (including the United
2 States and any other governmental instrumentality
3 or agency, to the extent permitted by the eleventh
4 amendment to the Constitution) who is alleged to
5 have committed an act prohibited under section 5 of
6 this Act, section 306 of the Antarctic Marine Living
7 Resources Convention Act of 1984 (16 U.S.C.
8 2435), or section 4 of the Antarctic Protection Act
9 of 1990 (16 U.S.C. 2463); or

10 (2) against the Director, the Secretary, or any
11 other head of a Federal agency where there is al-
12 leged a failure of the Director, the Secretary, or
13 such other agency head to perform any act or duty
14 under this Act, the Antarctic Marine Living Re-
15 sources Convention Act of 1984, or the Antarctic
16 Protection Act of 1990, which is not discretionary
17 with the Director, the Secretary, or such other agen-
18 cy head.

19 (b) RELIEF.—The appropriate district court of the
20 United States shall have jurisdiction in actions brought
21 under subsection (a)(1) to enforce the prohibition con-
22 cerned, to order such action as may be necessary to correct
23 the violation, and to impose any civil penalty provided for
24 the violation. The appropriate district court shall have ju-
25 risdiction in actions brought under subsection (a)(2) to

1 order the Director, the Secretary, or the affected other
2 agency head to perform the act or duty concerned.

3 ~~(c) RULES APPLICABLE TO SUBSECTION (a)(1) AC-~~
4 ~~TIONS.—(1) No action may be commenced under sub-~~
5 ~~section (a)(1) before 60 days after the plaintiff has given~~
6 ~~notice of the alleged violation to each of the following:~~

7 ~~(A) The Director and the Secretary.~~

8 ~~(B) Any alleged violator of the prohibition.~~

9 Notice under this paragraph shall be given in such manner
10 as the Director shall prescribe by regulation.

11 ~~(2) No action may be commenced under subsection~~
12 ~~(a)(1) if the Director or Secretary has commenced and~~
13 ~~is diligently pursuing an action under this Act, the Ant-~~
14 ~~arctic Marine Living Resources Convention Act of 1984,~~
15 ~~or the Antarctic Protection Act of 1990, to require compli-~~
16 ~~ance with the prohibition concerned.~~

17 ~~(d) RULES APPLICABLE TO SUBSECTION (a)(2) AC-~~
18 ~~TIONS.—No action may be commenced under subsection~~
19 ~~(a)(2) before the 60th day following the date on which~~
20 ~~the plaintiff gives notice to the Director, the Secretary,~~
21 ~~or the affected other agency head that the plaintiff will~~
22 ~~commence such action.~~

23 ~~(e) COSTS.—The court, in issuing any final order in~~
24 ~~any action commenced pursuant to this section, may~~
25 ~~award costs of litigation (including reasonable attorney~~

1 and expert witness fees) to the prevailing or the substan-
 2 tially prevailing party whenever the court determines such
 3 an award is appropriate. The court may, if a temporary
 4 restraining order or preliminary injunction is sought, re-
 5 quire the filing of a bond or equivalent security in accord-
 6 ance with the Federal Rules of Civil Procedure.

7 (f) INTERVENTION.—In any action under this sec-
 8 tion, the United States if not a party may intervene as
 9 a matter of right.

10 (g) OTHER RIGHTS.—This section does not restrict
 11 any right that any person may have under any statute or
 12 common law to seek enforcement of any standard or limi-
 13 tation or to seek any other relief.

14 **SEC. 15. AMENDMENTS TO ANTARCTIC MARINE LIVING RE-**
 15 **SOURCES CONVENTION ACT OF 1984.**

16 (a) FINDINGS.—Section 302 of the Antarctic Marine
 17 Living Resources Convention Act of 1984 (16 U.S.C.
 18 2431) is amended by striking “and” at the end of para-
 19 graph (5); by redesignating paragraph (6) as paragraph
 20 (7); and by inserting immediately after paragraph (5) the
 21 following new paragraph:

22 “(6) safeguards provided in the Protocol con-
 23 cerning the taking of or harmful interference with
 24 marine living resources provide important supple-
 25 mentary protection; and”.

1 ~~(b) DEFINITIONS.—(1) Section 303(2) of the Ant-~~
2 ~~arctic Marine Living Resources Convention Act of 1984~~
3 ~~(16 U.S.C. 2432(2)) is amended—~~

4 ~~(A) by inserting “invertebrates, and plants,”~~
5 ~~immediately before “found south”; and~~

6 ~~(B) by inserting “, other than nonindigenous~~
7 ~~animals and plants introduced from north of the~~
8 ~~Convergence” immediately before the period at the~~
9 ~~end.~~

10 ~~(2) Section 303(5)(A) of the Antarctic Marine Living~~
11 ~~Resources Convention Act of 1984 (16 U.S.C.~~
12 ~~2432(5)(A)) is amended by inserting “, including any tak-~~
13 ~~ing or harmful interference prohibited under Article 3 of~~
14 ~~Annex II to the Protocol” immediately before the semi-~~
15 ~~colon.~~

16 ~~(3) Section 303 of the Antarctic Marine Living Re-~~
17 ~~sources Convention Act of 1984 (16 U.S.C. 2432) is~~
18 ~~amended—~~

19 ~~(A) by redesignating paragraphs (9) through~~
20 ~~(11) as paragraphs (10) through (12), respectively;~~
21 ~~and~~

22 ~~(B) by inserting immediately after paragraph~~
23 ~~(8) the following new paragraph:~~

24 ~~“(9) PROTOCOL.—The term ‘Protocol’ means~~
25 ~~the Protocol on Environmental Protection to the~~

1 Antarctic Treaty, done at Madrid on October 4,
2 1991, and all annexes thereto.”.

3 (c) UNLAWFUL ACTIVITIES.—(1) Section 306(1) of
4 the Antarctic Marine Living Resources Convention Act of
5 1984 (16 U.S.C. 2435(1)) is amended by inserting “or
6 the Protocol,” immediately after “violation of the provi-
7 sions of the Convention”.

8 (2) Section 306 of the Antarctic Marine Living Re-
9 sources Convention Act of 1984 (16 U.S.C. 2435) is
10 amended by redesignating paragraphs (4) through (7) as
11 paragraphs (5) through (8), respectively, and inserting im-
12 mediately after paragraph (3) the following new para-
13 graph:

14 “(4) to introduce a dog into the area south of
15 60 degrees south latitude or, unless authorized by a
16 permit issued under section 6 of the Antarctic Sci-
17 entific Research, Tourism, and Marine Resources
18 Act of 1993, to introduce any other nonindigenous
19 animal or plant into such area;”.

20 (d) CONFORMING AMENDMENTS.—(1) Section
21 309(a) of the Antarctic Marine Living Resources Conven-
22 tion Act of 1984 (16 U.S.C. 2438(a)) is amended by strik-
23 ing “(4), (5), (6), or (7)” and inserting in lieu thereof
24 “(5), (6), (7), or (8)”.

1 ~~(2) Section 310(b)(8) of the Antarctic Marine Living~~
 2 ~~Resources Convention Act of 1984 (16 U.S.C. 2439(b)(8))~~
 3 ~~is amended by striking “(4), (5), (6), or (7)” and inserting~~
 4 ~~in lieu thereof “(5), (6), (7), or (8)”.~~

5 **SEC. 16. AMENDMENTS TO THE ACT TO PREVENT POLLU-**
 6 **TION FROM SHIPS.**

7 ~~(a) DEFINITIONS.—Section 2(a) of the Act to Pre-~~
 8 ~~vent Pollution from Ships (33 U.S.C. 1901(a)) is amend-~~
 9 ~~ed—~~

10 ~~(1) in paragraph (8) by striking “and” at the~~
 11 ~~end;~~

12 ~~(2) in paragraph (9) by striking the period and~~
 13 ~~inserting in lieu thereof a semicolon; and~~

14 ~~(3) by adding at the end the following new~~
 15 ~~paragraphs:~~

16 ~~“(10) ‘Antarctica’ means the area south of 60~~
 17 ~~degrees south latitude, including all ice shelves; and~~

18 ~~“(11) ‘Antarctic Protocol’ means the Protocol~~
 19 ~~on Environmental Protection to the Antarctic Trea-~~
 20 ~~ty, done at Madrid on October 4, 1991, and all~~
 21 ~~annexes thereto.”.~~

22 ~~(b) APPLICATION OF ANNEX IV.—Section 2 of the~~
 23 ~~Act to Prevent Pollution from Ships (33 U.S.C. 1901) is~~
 24 ~~amended by adding at the end the following new sub-~~
 25 ~~section:~~

1 ~~“(c) The requirements of Annex IV to the Antarctic~~
 2 ~~protocol shall apply in Antarctica—~~

3 ~~“(1) to all ships described in section 3(a)(1);~~
 4 ~~and~~

5 ~~“(2) to all other ships over which the United~~
 6 ~~States has jurisdiction, including all ships engaged~~
 7 ~~in or supporting United States Antarctic oper-~~
 8 ~~ations.”~~

9 ~~(c) SHIPS COVERED BY THE ACT.—Section 3 of the~~
 10 ~~Act to Prevent Pollution from Ships (33 U.S.C. 1902) is~~
 11 ~~amended—~~

12 ~~(1) in subsection (a) by striking “and” after the~~
 13 ~~semicolon at the end of paragraph (3), by striking~~
 14 ~~the period at the end of paragraph (4) and inserting~~
 15 ~~in lieu thereof “; and”, and by adding at the end the~~
 16 ~~following new paragraph:~~

17 ~~“(5) with respect to Annex IV to the Antarctic~~
 18 ~~Protocol, to all ships described in paragraph (1) and~~
 19 ~~to all other ships over which the United States has~~
 20 ~~jurisdiction, including all ships engaged in or sup-~~
 21 ~~porting United States Antarctic operations.”; and~~

22 ~~(2) in subsection (b)(2)—~~

23 ~~(A) in subparagraph (A) by striking “sub-~~
 24 ~~paragraph (B)” and inserting in lieu thereof~~
 25 ~~“subparagraph (C)”;~~

1 ~~(B)~~ by redesignating subparagraph ~~(B)~~ as
 2 subparagraph ~~(C)~~; and

3 ~~(C)~~ by inserting immediately after sub-
 4 paragraph ~~(A)~~ the following new subparagraph:

5 “(B) Notwithstanding any provision of the Antarctic
 6 Protocol and subject to subparagraph ~~(C)~~, the require-
 7 ments of Annex IV to that Protocol shall apply to a ship
 8 referred to in paragraph (1)(A) operating in Antarctica.”.

9 ~~(d)~~ ADMINISTRATION.—Section 4(a) of the Act to
 10 Prevent Pollution from Ships (33 U.S.C. 1903(a)) is
 11 amended in the first sentence by inserting “; Annex IV
 12 to the Antarctic Protocol,” immediately after “MARPOL
 13 Protocol”.

14 ~~(e)~~ REGULATIONS.—Section 4 of the Act to Prevent
 15 Pollution from Ships (33 U.S.C. 1903) is amended—

16 (1) in subsection ~~(b)~~(1) by inserting “; Annex
 17 IV to the Antarctic Protocol,” immediately after
 18 “MARPOL Protocol”; and

19 (2) by adding at the end of subsection ~~(b)~~ the
 20 following new paragraph:

21 “(3) The Secretary shall prescribe, within 2 years
 22 after the effective date of the Antarctic Scientific Re-
 23 search, Tourism, and Marine Resources Act of 1993, regu-
 24 lations to implement Annex IV to the Antarctic Protocol,
 25 regulations to ensure that all ships described in section

1 3(a)(1) and all other ships over which the United States
 2 has jurisdiction have contingency plans for marine pollu-
 3 tion incidents in Antarctica.”.

4 (f) SHIPBOARD RETENTION OF WASTES.—Section 6
 5 of the Act to Prevent Pollution from Ships (33 U.S.C.
 6 1905) is amended by adding at the end the following new
 7 subsection:

8 “(g) The Secretary shall ensure that all ships de-
 9 scribed in section 3(a)(1) and all other ships over which
 10 the United States has jurisdiction, before entering Antarc-
 11 tica—

12 “(1) have sufficient capacity in accordance with
 13 Annex IV to the Antarctic Protocol to retain on
 14 board, all oil, noxious liquid substances, and gar-
 15 bage; and

16 “(2) have concluded arrangements to discharge
 17 oil, noxious liquid substances, and garbage at recep-
 18 tion facilities outside of Antarctica.”.

19 (g) VIOLATIONS AND ENFORCEMENT.—Section 8 of
 20 the Act to Prevent Pollution from Ships (33 U.S.C. 1907)
 21 is amended—

22 (1) in subsection (a)—

23 (A) in the first sentence by inserting
 24 “Annex IV to the Antarctic Protocol,” imme-
 25 diately after “MARPOL Protocol,”; and

1 ~~(B)~~ by inserting immediately after the sec-
 2 ond sentence the following: “The Secretary
 3 shall cooperate with other parties to the Ant-
 4 arctic Protocol in the detection of violations of
 5 Annex IV to that Protocol and in the enforce-
 6 ment of Annex IV.”;

7 ~~(2)~~ in subsection ~~(b)~~—

8 (A) in the fourth sentence by inserting “or
 9 Annex IV to the Antarctic Protocol as applica-
 10 ble,” immediately after “MARPOL Protocol”;
 11 and

12 ~~(B)~~ in the fifth sentence by inserting “or
 13 a party to the Antarctic Protocol” immediately
 14 after “MARPOL Protocol”; and

15 ~~(3)~~ in subsection ~~(e)~~—

16 (A) in paragraph ~~(2)~~ by inserting “, of
 17 Annex IV to the Antarctic Protocol,” imme-
 18 diately after “MARPOL Protocol”;

19 ~~(B)~~ by redesignating paragraph ~~(2)~~ as
 20 paragraph ~~(3)~~; and

21 ~~(C)~~ by inserting immediately after para-
 22 graph ~~(1)~~ the following:

23 “~~(2)~~ The Secretary may inspect at any time a ship
 24 described in section 3(a)(1) or any other ship over which
 25 the United States has jurisdiction, to verify whether that

1 ship has discharged oil, a noxious liquid substance, gar-
 2 bage, or sewage in violation of Annex IV to the Antarctic
 3 Protocol or in violation of any provision of this Act that
 4 implements that Protocol.”.

5 (h) PENALTIES.—Section 9 of the Act to Prevent
 6 Pollution from Ships (33 U.S.C. 1908) is amended—

7 (1) in subsection (a) by inserting “Annex IV to
 8 the Antarctic Protocol,” immediately after
 9 “MARPOL Protocol,”;

10 (2) in subsection (b) by inserting “Annex IV to
 11 the Antarctic Protocol,” immediately after
 12 “MARPOL Protocol,” any place it appears;

13 (3) in subsection (d) by inserting “Annex IV to
 14 the Antarctic Protocol,” immediately after
 15 “MARPOL Protocol,”;

16 (4) in subsection (e) by inserting “, Annex IV
 17 to the Antarctic Protocol,” immediately after
 18 “MARPOL Protocol”; and

19 (5) in subsection (f) by inserting “or to the
 20 Antarctic Protocol” immediately after “MARPOL
 21 Protocol” each place it appears.

22 **SEC. 17. AMENDMENT TO ANTARCTIC PROTECTION ACT OF**
 23 **1990.**

24 Section 4 of the Antarctic Protection Act of 1990 (16
 25 U.S.C. 2463) is amended by striking “Pending” and all

1 that follows through “activities, it” and inserting in lieu
2 thereof “It”.

3 **SEC. 18. RELATION TO EXISTING TREATIES, STATUTES,**
4 **REGULATIONS, AND PERMITS.**

5 (a) IN GENERAL.—Except as provided in subsection
6 (b), nothing in this Act shall be construed as contravening
7 or superseding—

8 (1) any international treaty, convention, or
9 agreement, if such treaty, convention, or agreement
10 is in force with respect to the United States on the
11 date of enactment of this Act; or

12 (2) any statute which implements any such
13 treaty, convention, or agreement.

14 (b) REPEAL.—The Antarctic Conservation Act of
15 1978 (16 U.S.C. 2401 et seq.) is repealed.

16 (c) SAVINGS PROVISIONS.—(1) Nothing in this Act
17 shall affect the authority of the Director—

18 (A) to support basic research investigations of
19 the Antarctic environment to understand globally
20 important processes; and

21 (B) to operate, in accordance with this Act,
22 United States facilities, bases, and stations in Ant-
23 arctica.

24 (2) All regulations issued under the Antarctic Con-
25 servation Act of 1978 (16 U.S.C. 2401 et seq.) shall re-

1 main in effect until superseded by regulations promul-
2 gated under section 9 of this Act, or by revised regulations
3 promulgated under the Act to Prevent Pollution from
4 Ships, as amended by section 16 of this Act; except that
5 if the regulations issued under the Antarctic Conservation
6 Act of 1978 are inconsistent with the Protocol or have
7 been superseded by the provisions of this Act, the Protocol
8 and this Act shall control.

9 (3) All permits issued under the Antarctic Conserva-
10 tion Act of 1978 (16 U.S.C. 2401 et seq.) shall remain
11 in effect until they expire in accordance with the terms
12 of those permits.

13 **SEC. 19. REPORT TO CONGRESS.**

14 Not later than 2 years after the date of enactment
15 of this Act, the Director shall submit to the Committee
16 on Commerce, Science, and Transportation of the Senate
17 and the Committee on Merchant Marine and Fisheries of
18 the House of Representatives a report on the implementa-
19 tion of the Protocol and this Act.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Antarctic Scientific*
22 *Research, Tourism, and Marine Resources Act of 1993”.*

23 **SEC. 2. FINDINGS; PURPOSE.**

24 *The Congress finds the following:*

1 (1) *For well over a quarter of a century, sci-*
2 *entific investigation has been the main activity of the*
3 *Federal Government and United States nationals in*
4 *Antarctica.*

5 (2) *More recently Antarctica has become of in-*
6 *creasing interest to American tourists.*

7 (3) *As the lead civilian agency in Antarctica, the*
8 *National Science Foundation has long had the re-*
9 *sponsibility of ensuring that United States scientific*
10 *expeditions and tourism, and their supporting logis-*
11 *tics operations, are conducted with an eye to preserv-*
12 *ing the special values of the Antarctic region.*

13 (4) *The National Science Foundation, in close*
14 *cooperation with other scientific agencies, has granted*
15 *many scientific and other permits under the Ant-*
16 *arctic Conservation Act of 1978, which implemented*
17 *the Agreed Measures for the Conservation of Antarctic*
18 *Fauna and Flora adopted under the auspices of the*
19 *Antarctic Treaty.*

20 (5) *The Antarctic Marine Living Resources Con-*
21 *vention Act of 1984 and the Antarctic Protection Act*
22 *of 1990 have reinforced this stewardship objective by*
23 *assigning the Under Secretary of Commerce for*
24 *Oceans and Atmosphere the duty to conserve the liv-*

1 *ing and nonliving marine resources of the Antarctic*
2 *region.*

3 *(6) The recently concluded Protocol on Environ-*
4 *mental Protection to the Antarctic Treaty, which sup-*
5 *plants the Agreed Measures on Fauna and Flora, is*
6 *the latest step in safeguarding Antarctica as a natu-*
7 *ral reserve for science.*

8 *(7) The Protocol establishes international mecha-*
9 *nisms and creates legal obligations necessary for the*
10 *maintenance of Antarctica as a natural reserve, de-*
11 *voted to peace and science. In addition, the Protocol*
12 *serves important United States environmental and re-*
13 *source management interests, while at the same time*
14 *preserving the freedom of scientific investigation in*
15 *Antarctica.*

16 *(8) Effective implementation of the Protocol for*
17 *the United States will be best and most efficiently ac-*
18 *complished by keeping the National Science Founda-*
19 *tion in its lead agency role in managing scientific ac-*
20 *tivities in Antarctica, with the close cooperation of*
21 *other agencies with regulatory and enforcement roles*
22 *relating to tourism, marine resource use, waste dis-*
23 *posal, and other Antarctic activities.*

1 (b) *PURPOSE.*—*The purpose of this Act is to provide*
2 *legislative authority to implement the Protocol with respect*
3 *to the United States.*

4 ***SEC. 3. DEFINITIONS.***

5 *For purposes of this Act:*

6 (1) *The term “Administrator” means the Admin-*
7 *istrator of the Environmental Protection Agency or*
8 *an officer or employee thereof designated by the Ad-*
9 *ministrator.*

10 (2) *The term “Antarctica” means the area south*
11 *of 60 degrees south latitude, except that with respect*
12 *to Antarctic mineral resource activity, the term*
13 *means the area south of the Antarctic Convergence as*
14 *defined in section 303(1) of the Antarctic Marine Liv-*
15 *ing Resources Convention Act of 1984 (16 U.S.C.*
16 *2432(1)).*

17 (3) *The term “Antarctic mineral resource”—*

18 (A) *means any nonliving natural*
19 *nonrenewable resource (or part or product there-*
20 *of) found in or recovered from Antarctica;*

21 (B) *includes fossil fuels and minerals,*
22 *whether metallic or nonmetallic; and*

23 (C) *does not include ice, water, snow, or*
24 *any mineral resource removed before the date of*
25 *enactment of this Act.*

1 (4) *The term “Antarctic mineral resource activ-*
2 *ity” means collecting, removing or transporting, or*
3 *prospecting for, or exploration or development of, an*
4 *Antarctic mineral resource, except that the term does*
5 *not include those activities that are undertaken in the*
6 *course of and that are directly related to—*

7 (A) *scientific research;*

8 (B) *construction, operation, and mainte-*
9 *nance of research stations, field camps, or other*
10 *such facilities; or*

11 (C) *providing, with the advance written*
12 *consent of the recipient institution, an Antarctic*
13 *mineral resource specimen to a museum or other*
14 *institution with a similar public function.*

15 (5) *The term “Antarctic specially protected*
16 *area” means an area identified as such under section*
17 *7.*

18 (6) *The term “Committee for Environmental*
19 *Protection” means the Committee for Environmental*
20 *Protection established under Article 11 of the Proto-*
21 *col.*

22 (7) *The term “development”—*

23 (A) *means any activity (including logistic*
24 *support) which takes place following exploration,*

1 *the purpose of which is the exploitation of spe-*
2 *cific Antarctic mineral resource deposits; and*

3 *(B) includes processing, storage, and trans-*
4 *port activities.*

5 *(8) The term “Director” means the Director of*
6 *the National Science Foundation or an officer or em-*
7 *ployee thereof designated by the Director.*

8 *(9) The term “exploration”—*

9 *(A) means any activity (including logistic*
10 *support) the purpose of which is the identifica-*
11 *tion or evaluation of specific Antarctic mineral*
12 *resource deposits for possible development; and*

13 *(B) includes exploratory drilling, dredging,*
14 *and other surface or subsurface excavations un-*
15 *dertaken to determine the nature and size of*
16 *mineral resource deposits and the feasibility of*
17 *their development.*

18 *(10) The term “harmful interference” means—*

19 *(A) flying or landing helicopters or other*
20 *aircraft in a manner that disturbs concentra-*
21 *tions of birds or seals;*

22 *(B) using vehicles or vessels, including*
23 *hovercraft and small boats, in a manner that*
24 *disturbs concentrations of birds or seals;*

1 (C) using explosives or firearms in a man-
2 ner that disturbs concentrations of birds or seals;

3 (D) willfully disturbing breeding or molting
4 birds or concentrations of birds or seals by per-
5 sons on foot;

6 (E) significantly damaging concentrations
7 of native terrestrial plants by landing aircraft,
8 driving vehicles, walking on them, or by other
9 means; and

10 (F) any activity that results in significant
11 adverse modification of the habitat of any species
12 or population of native mammal, native bird,
13 native plant, or native invertebrate.

14 (11) The term “historic site or monument”
15 means any site or monument identified as a historic
16 site or monument by the Director under section 7.

17 (12) The term “impact” means impact on the
18 Antarctic environment or on dependent or associated
19 ecosystems.

20 (13) The term “implementing agency” means the
21 Director, the Secretary, the Administrator, the Sec-
22 retary of the department in which the Coast Guard
23 is operating, or the Secretary of State, as regulatory
24 responsibilities are vested under this Act.

1 (14) *The term “import” means to land on, bring*
2 *into, or introduce into, or attempt to land on, bring*
3 *into, or introduce into, any place subject to the juris-*
4 *isdiction of the United States, including the 12-mile*
5 *territorial sea of the United States, whether or not*
6 *such act constitutes an importation within the mean-*
7 *ing of the customs laws of the United States.*

8 (15) *The term “native bird” means any member,*
9 *at any stage of its life cycle (including eggs), of any*
10 *species of the class Aves which is indigenous to Ant-*
11 *arctica or occurs there seasonally through natural mi-*
12 *grations, designated by the Director as a native spe-*
13 *cies under section 7, and includes any part of such*
14 *member.*

15 (16) *The term “native invertebrate” means any*
16 *terrestrial or freshwater invertebrate, at any stage of*
17 *its life cycle, which is indigenous to Antarctica, des-*
18 *ignated by the Director as such under section 7, and*
19 *includes any part of such invertebrate.*

20 (17) *The term “native mammal” means any*
21 *member, at any stage of its life cycle, of any species*
22 *of the class Mammalia, which is indigenous to Ant-*
23 *arctica or occurs there seasonally through natural mi-*
24 *grations, designated by the Director as a native spe-*

1 *cies under section 7, and includes any part of such*
2 *member.*

3 (18) *The term “native plant” means any terres-*
4 *trial or freshwater vegetation, including bryophytes,*
5 *lichens, fungi, and algae, at any stage of its life cycle*
6 *(including seeds and other propagules), which is in-*
7 *digenuous to Antarctica, designated as such by the Di-*
8 *rector under section 7, and includes any part of such*
9 *vegetation.*

10 (19) *The term “non-native species” means any*
11 *species of animal or plant which is not indigenous to*
12 *Antarctica.*

13 (20) *The term “person” means an individual,*
14 *partnership, corporation, trust, association, or other*
15 *entity subject to the jurisdiction of the United States*
16 *and any department, agency, or other instrumentality*
17 *of the Federal Government or of any State or local*
18 *government, and any officer, employee, or agent of*
19 *any such instrumentality.*

20 (21) *The term “prohibited product” means any*
21 *substance which is designated as such under section*
22 *7.*

23 (22) *The term “prohibited waste” means any*
24 *substance which is designated as such under section*
25 *7.*

1 (23) The term “prospecting” means any activity
2 (including logistic support), the purpose of which is
3 the identification of Antarctic mineral resource poten-
4 tial for possible exploration and development.

5 (24) The term “Protocol” means the Protocol on
6 Environmental Protection to the Antarctic Treaty,
7 signed October 4, 1991, in Madrid, and all annexes
8 thereto, and includes any future amendments thereto
9 which have entered into force.

10 (25) The term “Secretary” means the Secretary
11 of Commerce, or an officer or employee thereof des-
12 ignated by the Secretary.

13 (26) The term “specially protected species”
14 means any native species designated as a specially
15 protected species by the Director under section 7.

16 (27) The term “take” or “taking” means to kill,
17 injure, capture, handle, or molest, a native mammal
18 or bird, or to remove or damage such quantities of
19 native plants that their local distribution or abun-
20 dance would be significantly affected.

21 (28) The terms “Treaty” and “Antarctic Treaty”
22 mean the Antarctic Treaty signed in Washington,
23 D.C., on December 1, 1959.

24 (29) The term “United States” means the several
25 States of the Union, the District of Columbia, the

1 *Commonwealth of Puerto Rico, American Samoa, the*
2 *Virgin Islands, Guam, the Commonwealth of the*
3 *Northern Mariana Islands, any other commonwealth,*
4 *territory, or possession of the United States, and the*
5 *Trust Territory of the Pacific Islands.*

6 (30) *The term “vessel subject to the jurisdiction*
7 *of the United States” includes any “vessel of the*
8 *United States” and any “vessel subject to the jurisdic-*
9 *tion of the United States” as those terms are defined*
10 *in section 303 of the Antarctic Marine Living Re-*
11 *sources Convention Act of 1984 (16 U.S.C. 2432).*

12 **SEC. 4. NATIONAL PRINCIPLES FOR UNITED STATES AC-**
13 **TIVITIES.**

14 *All activities undertaken with respect to Antarctica by*
15 *any agency, officer, or employee of the United States or by*
16 *any other person subject to the jurisdiction of the United*
17 *States shall be consistent with the following principles:*

18 (1) *The protection of the Antarctic environment*
19 *and dependent and associated ecosystems and the in-*
20 *trinsic value of Antarctica, including its wilderness*
21 *and aesthetic values and its value as an area for the*
22 *conduct of scientific research, in particular research*
23 *essential to understanding the global environment,*
24 *shall be fundamental considerations in the planning*

1 *and conduct of all activities in the Antarctic Treaty*
2 *area.*

3 *(2) Activities in Antarctica shall be planned and*
4 *conducted so as to limit adverse impacts on the Ant-*
5 *arctic environment and dependent and associated*
6 *ecosystems and avoid—*

7 *(A) adverse effects on climate or weather*
8 *patterns;*

9 *(B) significant adverse effects on air or*
10 *water quality;*

11 *(C) significant changes in the atmospheric,*
12 *terrestrial (including aquatic), glacial, or ma-*
13 *rine environments;*

14 *(D) detrimental changes in the distribution,*
15 *abundance, or productivity of species or popu-*
16 *lations of species of fauna and flora;*

17 *(E) further jeopardy to endangered or*
18 *threatened species or populations of such species;*
19 *or*

20 *(F) degradation of, or substantial risk to,*
21 *areas of biological, scientific, historic, aesthetic,*
22 *or wilderness significance.*

23 *(3) Activities in Antarctica shall be planned and*
24 *conducted on the basis of information sufficient to*
25 *allow prior assessments of, and informed judgments*

1 *about, their possible impacts on the Antarctic envi-*
2 *ronment and dependent and associated ecosystems*
3 *and on the value of Antarctica for the conduct of sci-*
4 *entific research, taking full account of—*

5 *(A) the scope of the activity, including its*
6 *area, duration, and intensity;*

7 *(B) the cumulative impacts of the activity,*
8 *both by itself and in combination with other ac-*
9 *tivities in the Antarctic Treaty area;*

10 *(C) whether the activity will detrimentally*
11 *affect any other activity in the Antarctic Treaty*
12 *area;*

13 *(D) whether technology and procedures are*
14 *available to provide for environmentally safe op-*
15 *erations;*

16 *(E) whether there exists the capacity to*
17 *monitor key environmental parameters and eco-*
18 *system components so as to identify and provide*
19 *early warning of any adverse effects of the activ-*
20 *ity and to provide for such modification of oper-*
21 *ating procedures as may be necessary in light of*
22 *the results of monitoring or increased knowledge*
23 *of the Antarctic environment and dependent and*
24 *associated ecosystems; and*

1 (F) whether there exists the capacity to re-
2 spond promptly and effectively to accidents, par-
3 ticularly those with potential environmental ef-
4 fects.

5 (4) Regular and effective monitoring shall take
6 place to allow assessment of the impacts of ongoing
7 activities, including the verification of predicted im-
8 pacts.

9 (5) Regular and effective monitoring shall take
10 place to facilitate early detection of the possible un-
11 foreseen effects of activities carried out both within
12 and outside the Antarctic Treaty area on the Ant-
13 arctic environment and dependent and associated
14 ecosystems.

15 (6) Activities in Antarctica shall be planned and
16 conducted so as to accord priority to scientific re-
17 search and to preserve the value of Antarctica as an
18 area for the conduct of such research, including re-
19 search essential to understanding the global environ-
20 ment.

21 (7) Activities in Antarctica subject to United
22 States jurisdiction shall take place in a manner con-
23 sistent with the Protocol, and shall be modified, sus-
24 pended, or cancelled if they result in or threaten to
25 result in impact upon the Antarctic environment or

1 *dependent or associated ecosystems inconsistent with*
2 *the Protocol.*

3 **SEC. 5. PROHIBITED ACTS.**

4 (a) *IN GENERAL.*—*It is unlawful for any person—*

5 (1) *to engage in, provide assistance (including*
6 *logistic support) to, or knowingly finance any Ant-*
7 *arctic mineral resource activity;*

8 (2) *to receive, acquire, transport, offer for sale,*
9 *sell, purchase, import, export, or have custody, con-*
10 *trol, or possession of any Antarctic mineral resource*
11 *which that person knows, or in the exercise of due*
12 *care should have known, was recovered or otherwise*
13 *possessed as a result of Antarctic mineral resource ac-*
14 *tivity, without regard to the citizenship of the entity*
15 *that engaged in, or the vessel used in engaging in, the*
16 *Antarctic mineral resource activity;*

17 (3) *to introduce any prohibited product onto*
18 *land or ice shelves or into water in Antarctica;*

19 (4) *to dispose of any waste onto ice-free land*
20 *areas or into fresh water systems in Antarctica;*

21 (5) *to dispose of any prohibited waste in Antarc-*
22 *tica;*

23 (6) *to engage in open burning of waste in Ant-*
24 *arctica after March 1, 1994;*

25 (7) *to dispose of waste by landfill in Antarctica;*

1 (8) *to transport passengers to, from, or within*
2 *Antarctica by any vessel not required to comply with*
3 *the Act to Prevent Pollution from Ships (33 U.S.C.*
4 *1901 et seq.), unless the person has an agreement with*
5 *the vessel owner or operator under which the owner*
6 *or operator is required to comply with Annex IV to*
7 *the Protocol;*

8 (9) *who organizes, sponsors, operates, or pro-*
9 *motes a nongovernmental expedition to Antarctica,*
10 *and who does business in the United States, to fail*
11 *to notify all members of the expedition of the environ-*
12 *mental protection obligations of this Act, and of ac-*
13 *tions which members must take, or not take, in order*
14 *to comply with those obligations;*

15 (10) *to damage, remove, or destroy a historic site*
16 *or monument;*

17 (11) *to refuse permission to any authorized offi-*
18 *cer or employee of the United States to board a vessel,*
19 *vehicle, or aircraft of the United States, or subject to*
20 *the jurisdiction of the United States, for the purpose*
21 *of conducting any search or inspection in connection*
22 *with the enforcement of this Act or any regulation*
23 *promulgated or permit issued under this Act;*

24 (12) *to forcibly assault, resist, oppose, impede,*
25 *intimidate, or interfere with any authorized officer or*

1 *employee of the United States in the conduct of any*
 2 *search or inspection described in paragraph (11);*

3 *(13) to resist a lawful arrest or detention for any*
 4 *act prohibited by this section;*

5 *(14) to interfere with, delay, or prevent, by any*
 6 *means, the apprehension, arrest, or detention of an-*
 7 *other person, knowing that such other person has com-*
 8 *mitted any act prohibited by this section;*

9 *(15) to violate any regulation promulgated*
 10 *under this Act, or any term or condition of any per-*
 11 *mit issued to that person under this Act; or*

12 *(16) to attempt to commit or cause to be commit-*
 13 *ted any act prohibited by this section.*

14 *(b) ACTS THAT ARE PROHIBITED UNLESS AUTHOR-*
 15 *IZED BY PERMIT.—It is unlawful for any person, unless*
 16 *authorized by a permit issued under this Act—*

17 *(1) to dispose of any waste in Antarctica (except*
 18 *as otherwise authorized under the Act to Prevent Pol-*
 19 *lution from Ships (33 U.S.C. 1901 et seq.)), includ-*
 20 *ing—*

21 *(A) to dispose of any waste from land into*
 22 *the sea in Antarctica; and*

23 *(B) to incinerate any waste on land or ice*
 24 *shelves in Antarctica, or on board vessels at*
 25 *points of embarkation or debarkation, other than*

1 *through the use at remote field sites of inciner-*
2 *ator toilets for human waste;*

3 *(2) to introduce into Antarctica any member of*
4 *a non-native species;*

5 *(3) to enter or engage in activities within any*
6 *Antarctic specially protected area;*

7 *(4) to engage in any taking or harmful inter-*
8 *ference in Antarctica; or*

9 *(5) to receive, acquire, transport, offer for sale,*
10 *sell, purchase, import, export, or have custody, con-*
11 *trol, or possession of, any native bird, native mam-*
12 *mal, or native plant which the person knows, or in*
13 *the exercise of due care should have known, was taken*
14 *in violation of this Act.*

15 *(c) EXCEPTION FOR EMERGENCIES.—No act described*
16 *in subsection (a)(4), (a)(5), (a)(6), (a)(8), (a)(10), (a)(15),*
17 *or (a)(16) or subsection (b) shall be unlawful if the person*
18 *committing the act reasonably believed that he or she did*
19 *so under emergency circumstances involving the safety of*
20 *human life or of ships, aircraft, or equipment or facilities*
21 *of high value, or the protection of the environment.*

22 **SEC. 6. PERMITS.**

23 *(a) IN GENERAL.—The Director may, in accordance*
24 *with this section, issue a permit which authorizes the con-*
25 *duct within Antarctica of an act described in section 5(b).*

1 (b) *APPLICATIONS FOR PERMITS.*—(1) *Applications*
2 *for permits under this section shall be made in such manner*
3 *and form, and shall contain such information, as the Direc-*
4 *tor shall by regulation prescribe, and shall be signed by the*
5 *persons responsible for the activities undertaken under the*
6 *permit.*

7 (2) *The Director shall publish notice in the Federal*
8 *Register of each application which is made for a permit*
9 *under this section. The notice shall invite the submission*
10 *by interested parties, within 30 days (or such other reason-*
11 *able period greater than 30 days as the Director may deter-*
12 *mine) after the publication of the notice, of written data,*
13 *comments, or views with respect to the application. Such*
14 *application, and any data, comments, or views received,*
15 *shall be made available to the public.*

16 (c) *COOPERATION WITH OTHER AGENCIES ON CER-*
17 *TAIN PERMITS.*—(1)(A) *If the Director receives an applica-*
18 *tion for a permit under this section requesting authority*
19 *to undertake any action with respect to—*

20 (i) *any native mammal which is a marine mam-*
21 *mal within the meaning of section 3(5) of the Marine*
22 *Mammal Protection Act of 1972 (16 U.S.C. 1362(5));*
23 (ii) *any native mammal, native bird, native*
24 *plant, or native invertebrate which is an endangered*

1 *species or threatened species under the Endangered*
2 *Species Act of 1973 (16 U.S.C. 1531 et seq.); or*

3 (iii) *any native bird which is protected under*
4 *the Migratory Bird Treaty Act (16 U.S.C. 703 et*
5 *seq.);*

6 *the Director shall submit a copy of the application to the*
7 *Secretary or to the Secretary of the Interior, as appropriate*
8 *(hereafter in this subsection referred to as the “appropriate*
9 *Secretary”).*

10 (B) *After receiving a copy of any application from the*
11 *Director under subparagraph (A), the appropriate Sec-*
12 *retary shall promptly determine, and notify the Director,*
13 *whether or not any action proposed in the application also*
14 *requires a permit or other authorization under any law ad-*
15 *ministered by the appropriate Secretary.*

16 (C) *If the appropriate Secretary notifies the Director*
17 *that any action proposed in the application requires a per-*
18 *mit or other authorization under any law administered by*
19 *the appropriate Secretary, the Director may not issue a*
20 *permit under this section with respect to such action unless*
21 *such other required permit or authorization is issued by the*
22 *appropriate Secretary and a copy thereof is submitted to*
23 *the Director. The issuance of any permit or other authoriza-*
24 *tion by the appropriate Secretary for the carrying out of*
25 *any action with respect to any native mammal, native bird,*

1 *native invertebrate, or native plant shall not be deemed to*
2 *entitle the applicant concerned to the issuance by the Direc-*
3 *tor of a permit under this section.*

4 (2)(A) *If the Director prepares or receives an applica-*
5 *tion for a permit under this section requesting authority*
6 *to undertake an action described in section 5(b)(1), the Di-*
7 *rector shall submit a copy of the application to the Admin-*
8 *istrator, and the Director and Administrator shall prompt-*
9 *ly consult on the application.*

10 (B) *The Director shall not issue, or deny the issuance*
11 *of, a permit under this section with respect to an action*
12 *described in section 5(b)(1) before receiving the concurrence*
13 *of the Administrator.*

14 (C) *The Administrator shall inform the Director of*
15 *such concurrence or denial thereof within 60 days (unless*
16 *the Administrator and Director agree otherwise) after re-*
17 *ceiving a copy of the application under subparagraph (A).*

18 (3)(A) *If the Director receives an application for a per-*
19 *mit under this section requesting authority to undertake an*
20 *action described in section 5(b)(4) in connection with un-*
21 *avoidable consequences of the construction or operation of*
22 *scientific support facilities, the Director shall submit a copy*
23 *of the application to the Secretary, and the Director and*
24 *the Secretary shall promptly consult on the application.*

1 (B) *The Director shall not issue, or deny the issuance*
2 *of, a permit under this section with respect to such an ac-*
3 *tion without the written concurrence of the Secretary. In*
4 *making the decision, the Secretary shall take into consider-*
5 *ation the national need for the action and whether there*
6 *is no practicable alternative that will have a less adverse*
7 *impact on the environment. The Secretary shall inform the*
8 *Director of such concurrence or denial thereof within 60*
9 *days (unless the Secretary and Director agree otherwise)*
10 *after receiving a copy of the application under subpara-*
11 *graph (A).*

12 (4) *The Director shall provide the Secretary with a*
13 *copy of any permit application received for an activity*
14 *which may be subject to regulations promulgated under sec-*
15 *tion 8(b). The Director shall not issue such a permit with-*
16 *out the concurrence of the Secretary that the applicable re-*
17 *quirements of such regulations have been met. The Secretary*
18 *shall provide the Director with written notice as to whether*
19 *such requirements have been met within 60 days after re-*
20 *ceiving a copy of the application.*

21 (d) *ISSUANCE OF PERMITS.—As soon as practicable*
22 *after receiving any application for a permit under this sec-*
23 *tion, or, in the case of any application to which subsection*
24 *(c) applies, as soon as practicable after the applicable re-*
25 *quirements of such subsection are complied with, the Direc-*

1 *tor shall issue, or deny the issuance of, the permit. Within*
2 *10 days after the date of the issuance or denial of a permit*
3 *under this subsection, the Director shall publish notice of*
4 *the issuance or denial in the Federal Register, including*
5 *a description of any terms and conditions of the permit.*

6 *(e) MODIFICATION, SUSPENSION, AND REVOCATION.—*

7 *(1) The Director may modify, suspend, or revoke, in whole*
8 *or part, any permit issued under this section—*

9 *(A) if there is any change in conditions which*
10 *makes the permit inconsistent with the provisions of*
11 *this Act or the Protocol;*

12 *(B) in any case in which there has been any vio-*
13 *lation of this Act, including a violation of any regu-*
14 *lation promulgated under this Act, or of any term or*
15 *condition of the permit; or*

16 *(C) in order to make the permit consistent with*
17 *any change made, after the date of issuance of the*
18 *permit, to any regulation promulgated under section*
19 *7.*

20 *(2) If concurrence of the Administrator was required*
21 *under subsection (c)(2) before issuance of the permit, then*
22 *the Director shall not modify the permit without receiving*
23 *the concurrence of the Administrator with respect to the*
24 *modification.*

1 (3) *If the concurrence of the Secretary was required*
2 *under subsection (c)(3) or (c)(4) before issuance of the per-*
3 *mit, then the Director shall not modify the permit without*
4 *receiving the concurrence of the Secretary with respect to*
5 *the modification.*

6 (4) *The Director shall publish notice of the modifica-*
7 *tion, suspension, or revocation of any permit in the Federal*
8 *Register within 10 days after the date of the decision, in-*
9 *cluding the reasons for the decision.*

10 (5) *Any permit modification, suspension, or revocation*
11 *under paragraph (1)(B) shall be undertaken pursuant to*
12 *the provisions of section 16.*

13 (f) *PERMIT FEES.—The Director may establish and*
14 *charge fees for processing applications for permits under*
15 *this section. The amount of the fees shall be commensurate*
16 *with the administrative costs incurred by the Director in*
17 *processing the application. Fees received will be credited to*
18 *the appropriation or appropriations designated by the Di-*
19 *rector.*

20 (g) *TERMS AND CONDITIONS OF PERMITS.—(1) Each*
21 *permit issued under this section shall specify—*

22 (A) *the period during which the permit is valid;*
23 *and*

24 (B) *any other terms and conditions the Director*
25 *considers necessary and appropriate to ensure that*

1 *any action authorized under the permit is carried out*
2 *in a manner consistent with this Act and the regula-*
3 *tions promulgated under the Act, including appro-*
4 *priate record-keeping, reporting, and compliance*
5 *monitoring requirements, and other terms and condi-*
6 *tions relating to inspection of documents and records.*

7 *(2) A permit which authorizes the disposal of any*
8 *waste in Antarctica shall—*

9 *(A) be issued only if the Director determines,*
10 *with the concurrence of the Administrator and based*
11 *on all relevant information, that such disposal will*
12 *not pose a substantial hazard to human health or the*
13 *Antarctic environment;*

14 *(B) specify the amount of waste which may be*
15 *disposed of in Antarctica, how the waste shall be*
16 *managed prior to disposal, and the conditions for the*
17 *disposal;*

18 *(C) authorize the disposal of sewage or domestic*
19 *liquid waste from land in Antarctica directly into the*
20 *sea before March 1, 1997, only if the Director has*
21 *taken fully into account the provisions of Article 3 of,*
22 *and Annex III to, the Protocol, and provided that—*

23 *(i) the Director has determined that such*
24 *disposal occurs, if practicable, where conditions*

1 *exist for initial dilution and rapid dispersal;*
2 *and*

3 *(ii) if generated in large quantities, such*
4 *waste shall be treated by maceration or a treat-*
5 *ment that the Director has determined provides*
6 *greater environmental protection than does mac-*
7 *eration;*

8 *(D) require that the disposal of sewage or domes-*
9 *tic liquid waste from land directly into the sea in*
10 *Antarctica on and after March 1, 1997, shall meet*
11 *secondary treatment standards that are the same as*
12 *those applicable to such disposal in the navigable wa-*
13 *ters of the United States, except as authorized by reg-*
14 *ulations promulgated under section 7(f)(7);*

15 *(E) authorize the disposal of the by-product of*
16 *sewage treatment by the rotary biological conductor*
17 *process or similar processes from land into the sea,*
18 *only if the Director has determined that such disposal*
19 *does not adversely affect the local environment; and*

20 *(F) not authorize any disposal of prohibited*
21 *waste in Antarctica.*

22 *All determinations by the Director under this paragraph*
23 *shall be made with the concurrence of the Administrator.*

24 *(3) A permit which authorizes a taking or a harmful*
25 *interference within Antarctica—*

1 (A) may be issued only for the purpose of provid-
2 ing—

3 (i) specimens for scientific study or sci-
4 entific information;

5 (ii) specimens for museums, herbaria, zoo-
6 logical or botanical gardens, or other educational
7 or cultural institutions or uses; or

8 (iii) for consequences of scientific activities,
9 or of the construction and operation of scientific
10 support facilities, which the Director has deter-
11 mined are unavoidable; and

12 (B) shall require that, as determined by the Di-
13 rector—

14 (i) no more native mammals, native birds,
15 or native plants are taken than are strictly nec-
16 essary to meet the purposes set forth in subpara-
17 graph (A);

18 (ii) only small numbers of native mammals
19 or native birds are killed, and in no case more
20 native mammals or native birds are killed from
21 local populations than can, in combination with
22 other permitted takings, normally be replaced by
23 natural reproduction in the following season;
24 and

1 (iii) the diversity of species, as well as the
2 habitats essential to their existence, and the bal-
3 ance of the ecological systems existing within
4 Antarctica are maintained;

5 (C) shall specify—

6 (i) the number and species of native mam-
7 mals, native birds, native invertebrates, or native
8 plants to which the permit applies; and

9 (ii) the manner in which the taking or
10 harmful interference shall be conducted (which
11 manner, as determined by the Director, involves
12 the least degree of pain and suffering prac-
13 ticable), the period of time within which it must
14 be conducted, the area in which it must be con-
15 ducted, and the person who will take the action.

16 All determinations made by the Director under this para-
17 graph in connection with permits for which the concurrence
18 of the Secretary under subsection (c)(3) is required shall
19 be made only with the concurrence of the Secretary.

20 (4) A permit which authorizes a taking within Antarc-
21 tica of a member of a specially protected species must meet
22 the requirements contained in paragraph (3), and in addi-
23 tion may be issued only if the Director determines that—

24 (A) there is a compelling scientific purpose for
25 the taking;

1 (B) the taking will not jeopardize any existing
2 natural ecological system or the survival or recovery
3 of the species or local population; and

4 (C) the taking uses non-lethal techniques, if ap-
5 propriate.

6 All determinations made by the Director under this para-
7 graph in connection with permits for which the concurrence
8 of the Secretary under subsection (c)(3) is required shall
9 be made only with the concurrence of the Secretary.

10 (5) A permit which authorizes the introduction of a
11 member of a non-native species into Antarctica—

12 (A) may not be issued unless the non-native spe-
13 cies is listed in Appendix B to Annex II to the Proto-
14 col;

15 (B) shall specify the number, species, and, if ap-
16 propriate, age and sex of the animals or plants to
17 which the permit applies;

18 (C) shall specify the precautions to be taken to
19 prevent escape or contact with native fauna and flora;

20 (D) shall require that any animals or plants to
21 which the permit applies, and any progeny, shall,
22 prior to expiration of the permit, be removed from
23 Antarctica or disposed of by incineration or equally
24 effective means that eliminates risk to native fauna
25 and flora;

1 (E) shall not permit the importation of dogs or
2 live poultry or other living birds; and

3 (F) shall require that precautions be taken to
4 prevent the release into the environment of micro-or-
5 ganisms (including viruses, bacteria, parasites,
6 yeasts, and fungi) not present in native fauna and
7 flora.

8 (6) A permit which authorizes entry into and engaging
9 in activities within an Antarctic specially protected area
10 shall—

11 (A) if a management plan relating to the area
12 has been approved, be issued only—

13 (i) to enter and engage in activities within
14 the specially protected area which the Director
15 has determined are in accordance with the re-
16 quirements of the management plan relating to
17 that area; and

18 (ii) if accompanied by the relevant sections
19 of the management plan;

20 (B) if a management plan relating to the area
21 has not been approved, be issued only—

22 (i) if entry is necessary to accomplish a
23 compelling scientific purpose which the Director
24 has determined cannot be served elsewhere; and

1 (ii) if the Director has determined that the
2 actions allowed under the permit will not jeop-
3 ardize the natural ecological system existing in
4 the area; and

5 (C) specify—

6 (i) the extent and location of the specially
7 protected area;

8 (ii) the activities authorized;

9 (iii) the period of time within which the au-
10 thorized activities must be conducted, the area in
11 which they must be conducted, and the person
12 who is authorized to conduct them; and

13 (iv) other conditions imposed by the man-
14 agement plan, if any.

15 (7) No permit shall be required for the importation
16 of food into Antarctica, except that—

17 (A) no live animals may be imported for this
18 purpose;

19 (B) all plants and animal parts shall be kept
20 under carefully controlled conditions and disposed of
21 in accordance with the provisions of this Act; and

22 (C) before dressed poultry is packaged for ship-
23 ment to Antarctica, it shall be inspected for evidence
24 of disease, such as Newcastle's disease, tuberculosis,
25 and yeast infection.

1 **SEC. 7. REGULATIONS.**

2 (a) *IN GENERAL.*—The Director, the Secretary, the Ad-
3 ministrator, the Secretary of the department in which the
4 Coast Guard is operating, and the Secretary of State shall
5 promulgate, in accordance with this section, such regula-
6 tions as are necessary and appropriate to implement the
7 provisions of this Act and the Protocol.

8 (b) *REGULATIONS TO BE PROMULGATED BY THE SEC-*
9 *RETARY.*—The Secretary shall promulgate regulations
10 which—

11 (1) *implement the provisions of this Act and the*
12 *Protocol with respect to Antarctic mineral resource*
13 *activity;*

14 (2) *require that the results of any activity de-*
15 *scribed in section 3(4)(A), (B), or (C) shall be made*
16 *public;*

17 (3) *specify the terms and conditions that are re-*
18 *quired for an agreement, between a person transport-*
19 *ing passengers to, from, or within Antarctica by ves-*
20 *sel and the vessel owner or operator, as described in*
21 *section 5(a)(8); and*

22 (4) *require that any person who organizes, spon-*
23 *sors, operates, or promotes a nongovernmental expedi-*
24 *tion to Antarctica, and who does business in the*
25 *United States, to notify all members of the expedition*
26 *of the environmental protection obligations of this*

1 *Act, and of actions which members must take, or not*
 2 *take, in order to comply with those obligations.*

3 *(c) RESIDUAL AUTHORITY OF THE SECRETARY.—In*
 4 *addition to the specific authorities set forth in subsection*
 5 *(b), the Secretary may promulgate such regulations relating*
 6 *to Antarctic mineral resources and nongovernmental activi-*
 7 *ties as the Secretary deems necessary and appropriate to*
 8 *implement the Protocol, including but not limited to regula-*
 9 *tions which address a situation not covered by the annexes*
 10 *to the Protocol or in which a more rigorous or supplemental*
 11 *requirement is necessary.*

12 *(d) REGULATIONS TO BE PROMULGATED BY THE DI-*
 13 *RECTOR.—The Director shall promulgate regulations*
 14 *which—*

15 *(1) designate as native species—*

16 *(A) each species of the class Aves;*

17 *(B) each species of the class Mammalia;*

18 *(C) each species of plant; and*

19 *(D) each species of invertebrate;*

20 *which is indigenous to Antarctica or which occurs*
 21 *there seasonally through natural migrations;*

22 *(2) specify those actions which must, and those*
 23 *actions which must not, be taken within Antarctica*
 24 *in order to protect, in accordance with the applicable*

1 *provisions of the Protocol, members of each native*
2 *species designated under paragraph (1);*

3 *(3) designate as a specially protected species any*
4 *species of native mammal, native bird, native inverte-*
5 *brate, or native plant which is—*

6 *(A) listed in Appendix A to Annex II to the*
7 *Protocol; or*

8 *(B) approved by the United States for spe-*
9 *cial protection under the Protocol;*

10 *(4) designate as a non-native species that may*
11 *be introduced into Antarctica only those species listed*
12 *in Appendix B to Annex II to the Protocol;*

13 *(5) identify each area designated as an Antarctic*
14 *specially protected area or specially managed area*
15 *under the Protocol, and implement the provisions of*
16 *the management plan applicable to such area;*

17 *(6) identify each historic site and monument—*

18 *(A) listed under Article 8 of Annex V to the*
19 *Protocol; or*

20 *(B) approved by the United States for list-*
21 *ing as a historic site or monument; and*

22 *(7) set forth the form, content, and manner of fil-*
23 *ing, if applicable, of all notices, reports, declarations,*
24 *or other documentation which may be required with*

1 *respect to the carrying out of any act for which a per-*
 2 *mit is required under this Act.*

3 *(e) RESIDUAL REGULATORY AUTHORITY OF THE DI-*
 4 *RECTOR.—In addition to the specific authorities set forth*
 5 *in subsection (d), the Director may promulgate such regula-*
 6 *tions relating to the conservation of Antarctic fauna and*
 7 *flora or area protection in Antarctica as the Director deems*
 8 *necessary and appropriate to implement the provisions of*
 9 *the Protocol, including but not limited to regulations which*
 10 *address a situation not covered by the annexes to the Proto-*
 11 *col or in which a more rigorous or supplemental require-*
 12 *ment is necessary.*

13 *(f) REGULATIONS TO BE PROMULGATED BY THE DI-*
 14 *RECTOR WITH THE CONCURRENCE OF THE ADMINIS-*
 15 *TRATOR.—The Director, with the concurrence of the Admin-*
 16 *istrator, shall promulgate regulations which—*

17 *(1) designate as prohibited products—*

18 *(A) polychlorinated biphenyls;*

19 *(B) non-sterile soil;*

20 *(C) polystyrene beads or chips or similar*
 21 *forms of packaging;*

22 *(D) pesticides (other than those required for*
 23 *scientific, medical, or hygiene purposes); and*

1 (E) substances which the parties to the Pro-
2 tocol or Treaty agree should be banned from use
3 in Antarctica;

4 (2) designate as prohibited waste—

5 (A) radioactive materials;

6 (B) electrical batteries;

7 (C) liquid and solid fuel;

8 (D) wastes containing harmful levels of
9 heavy metals or acutely toxic or harmful persist-
10 ent compounds;

11 (E) polyvinyl chloride, polyurethane foam,
12 polystyrene foam, rubber and lubricating oils,
13 treated timbers, and other products which con-
14 tain additives that could produce harmful emis-
15 sions if incinerated;

16 (F) all other plastic wastes (including low
17 density polyethylene containers, such as bags for
18 storing wastes, unless incineration of such con-
19 tainers is authorized under regulations promul-
20 gated under paragraph (6), in which case such
21 containers shall be incinerated);

22 (G) fuel drums and other solid, non-combus-
23 tible wastes (provided that their removal would
24 not result in greater adverse environmental im-

1 *pact than leaving them in their existing loca-*
2 *tions);*

3 *(H) unless incinerated, autoclaved, or other-*
4 *wise treated to be made sterile—*

5 *(i) residues of carcasses of imported*
6 *animals;*

7 *(ii) laboratory culture of micro-orga-*
8 *nisms and plant pathogens;*

9 *(iii) medical wastes; and*

10 *(iv) introduced avian products;*

11 *(I) the solid residue of incineration; and*

12 *(J) any other substance which the Director*
13 *finds likely to create hazards to human health, to*
14 *harm living marine resources or other living re-*
15 *sources, to damage amenities, or to interfere with*
16 *other legitimate uses of Antarctica, if the sub-*
17 *stance is introduced into Antarctica;*

18 *(3) provide that—*

19 *(A) prohibited waste shall be removed from*
20 *Antarctica;*

21 *(B) sewage, domestic liquid waste, and*
22 *other liquid waste (other than prohibited waste)*
23 *shall, to the maximum extent practicable, be re-*
24 *moved from Antarctica;*

1 (C) waste at field camps shall be trans-
2 ported to supporting stations or vessels for dis-
3 posal in accordance with this Act; and

4 (D) wastes removed from Antarctica shall
5 be disposed of in accordance with applicable do-
6 mestic and international law;

7 (4) specify those actions which must, and those
8 actions which must not, be taken in order to prevent
9 or control the discharge or other disposal of prohibited
10 wastes, from any source within Antarctica;

11 (5) provide that sewage, domestic liquid waste,
12 and other liquid waste (other than prohibited waste)
13 generated by stations located inland on ice shelves or
14 on the grounded ice-sheet may be disposed of in deep
15 ice pits if such disposal is the only practicable option,
16 as long as such pits are not located on known ice-flow
17 lines which terminate at ice-free land areas or in
18 areas of high ablation;

19 (6) prohibit incineration in Antarctica, unless
20 the Director, with the concurrence of the Adminis-
21 trator, determines, after notice and opportunity for
22 public comment and not later than 1 year after the
23 date of enactment of this Act, that incineration is the
24 only practicable alternative for disposal of certain

1 *wastes and promulgates regulations governing such*
2 *incineration;*

3 (7) *require that disposal of sewage or domestic*
4 *liquid waste from land directly into the sea in Ant-*
5 *arctica on and after March 1, 1997, shall meet sec-*
6 *ondary treatment standards that are the same as*
7 *those applicable to such disposal in the navigable wa-*
8 *ters of the United States, unless the Director, with the*
9 *concurrence of the Administrator, determines, after*
10 *notice and opportunity for public comment and not*
11 *later than 1 year after the date of enactment of this*
12 *Act, that disposal that does not meet such standards*
13 *is the only practicable alternative for disposal of cer-*
14 *tain wastes and promulgates regulations governing*
15 *such disposal;*

16 (8) *provide that all wastes to be removed from*
17 *Antarctica, or disposed of in Antarctica, shall be*
18 *stored in such a way as to prevent their release into*
19 *the environment;*

20 (9) *provide, with respect to the United States*
21 *Antarctic Program and any other United States Gov-*
22 *ernment program in Antarctica, in accordance with*
23 *Articles 8, 9, and 10 of Annex III to the Protocol,*
24 *for—*

1 (A) the establishment of a waste disposal
2 classification system;

3 (B) the preparation, and annual review
4 and update, of waste management plans, taking
5 into account Article 1(3) of Annex III to the
6 Protocol; and

7 (C) other waste management activities of
8 such programs; and

9 (10) provide that past and present waste dis-
10 posal sites on land and abandoned work sites of Ant-
11 arctic activities shall be cleaned up by the generator
12 of such wastes and the user of such sites, provided
13 that—

14 (A) such regulations shall not require the
15 removal of any structure designated as a historic
16 site or monument, or the removal of any struc-
17 ture or waste material in circumstances where
18 the removal by any practical option would result
19 in greater adverse environmental impact than
20 leaving the structure or waste material in its ex-
21 isting location; and

22 (B) such regulations shall take into account
23 considerations of practicality, and of the safety
24 of human life.

1 (g) *RESIDUAL REGULATORY AUTHORITY OF THE DI-*
 2 *RECTOR WITH THE CONCURRENCE OF THE ADMINIS-*
 3 *TRATOR.*—*In addition to the specific authorities set forth*
 4 *in subsection (f), the Director, with the concurrence of the*
 5 *Administrator, may—*

6 (1) *promulgate such regulations relating to waste*
 7 *disposal and waste management in Antarctica as the*
 8 *Director deems necessary and appropriate to imple-*
 9 *ment the provisions of the Protocol, including but not*
 10 *limited to regulations which address a situation not*
 11 *covered by the annexes to the Protocol or in which a*
 12 *more rigorous or supplemental requirement is nec-*
 13 *essary; and*

14 (2) *designate additional items as prohibited*
 15 *products or prohibited waste under subsection (f)(1)*
 16 *and (2), when the Director determines that such des-*
 17 *ignation is necessary and appropriate to protect*
 18 *human health or the Antarctic environment.*

19 (h) *REGULATIONS TO BE PROMULGATED BY THE SEC-*
 20 *RETARY OF STATE.*—*The Secretary of State shall promul-*
 21 *gate such regulations as are necessary and appropriate to*
 22 *implement, with respect to any person, paragraph 5 of Arti-*
 23 *cle VII of the Treaty, pertaining to the filing of advance*
 24 *notifications of expeditions to and within Antarctica, in-*
 25 *cluding a requirement for such person to describe how he*

1 *or she plans to comply with any regulations promulgated*
 2 *under subsection (i).*

3 *(i) REGULATIONS WITH RESPECT TO CONTINGENCY*
 4 *PLANNING AND RESPONSE ACTION.—(1) The Secretary of*
 5 *the department in which the Coast Guard is operating, in*
 6 *addition to the regulations specified under the Act to Pre-*
 7 *vent Pollution from Ships (as amended by section 10 of this*
 8 *Act), shall promulgate, with the concurrence of the Director,*
 9 *such regulations as are necessary and appropriate to imple-*
 10 *ment the provisions of Article 15 of the Protocol with respect*
 11 *to vessels.*

12 *(2) The Director shall promulgate such regulations as*
 13 *are necessary and appropriate to implement the provisions*
 14 *of Article 15 of the Protocol with respect to land areas and*
 15 *ice shelves in Antarctica.*

16 *(j) RESIDUAL REGULATORY AUTHORITY OF THE SEC-*
 17 *RETARY OF THE DEPARTMENT IN WHICH THE COAST*
 18 *GUARD IS OPERATING.—In addition to the specific author-*
 19 *ity set forth in subsection (i) of this section and the Act*
 20 *to Prevent Pollution from Ships (as amended by section*
 21 *10), the Secretary of the department in which the Coast*
 22 *Guard is operating may promulgate such regulations relat-*
 23 *ing to marine pollution in Antarctica as such Secretary*
 24 *deems necessary and appropriate to implement the provi-*
 25 *sions of the Protocol, including but not limited to regula-*

1 *tions which address a situation not covered by the annexes*
 2 *to the Protocol or in which a more rigorous or supplemental*
 3 *requirement is necessary.*

4 *(k) TIME PERIOD FOR REGULATIONS.—The regula-*
 5 *tions to be promulgated under subsections (d) and (h) shall*
 6 *be promulgated within 24 months after the date of enact-*
 7 *ment of this Act. The regulations to be promulgated under*
 8 *subsection (f) shall be promulgated within 36 months after*
 9 *such date of enactment.*

10 **SEC. 8. ENVIRONMENTAL IMPACT ASSESSMENT.**

11 *(a) FEDERAL ACTIVITIES.—(1)(A) It is the intent of*
 12 *Congress to implement United States obligations under Ar-*
 13 *ticle 8 of and Annex I to the Protocol by applying the Na-*
 14 *tional Environmental Policy Act (42 U.S.C. 4321 et seq.)*
 15 *to proposals for Federal agency activities in Antarctica, as*
 16 *specified in this section.*

17 *(B) The obligations contained in section 102(2)(C) of*
 18 *the National Environmental Policy Act (42 U.S.C.*
 19 *4332(2)(C)) shall apply to proposals for Federal agency ac-*
 20 *tivities occurring in Antarctica and affecting the quality*
 21 *of the human environment in Antarctica or dependent or*
 22 *associated ecosystems, as specified in this section.*

23 *(2)(A) Unless an agency which proposes to conduct a*
 24 *Federal activity in Antarctica determines that the activity*
 25 *will have less than a minor or transitory impact, or unless*

1 *a comprehensive environment evaluation is being prepared*
2 *in accordance with paragraph (2)(C), the agency shall pre-*
3 *pare an initial environmental evaluation, in accordance*
4 *with Article 2 of Annex I to the Protocol.*

5 *(B) If the agency determines, through the preparation*
6 *of the initial environmental evaluation, that the proposed*
7 *Federal activity is likely to have a minor or transitory im-*
8 *pact, the activity may proceed if appropriate procedures*
9 *are put in place to assess and verify the impact of the*
10 *activity.*

11 *(C) If the agency determines, through the preparation*
12 *of the initial environmental evaluation or otherwise, that*
13 *a proposed Federal activity is likely to have more than a*
14 *minor or transitory impact, the agency shall prepare a*
15 *comprehensive environmental evaluation in accordance*
16 *with Article 3 of Annex I to the Protocol, and shall make*
17 *such comprehensive environmental evaluation publicly*
18 *available for comment.*

19 *(3) Any agency decision under this section on whether*
20 *a proposed Federal activity, to which paragraph (2)(C) ap-*
21 *plies, should proceed, and, if so, whether in its original or*
22 *in a modified form, shall be based on the comprehensive*
23 *environmental evaluation as well as other considerations*
24 *which the agency, in the exercise of its discretion, deems*
25 *relevant.*

1 (4) *For the purposes of this section—*

2 (A) *the term “Federal activity” includes, but is*
 3 *not limited to, activities conducted under a Federal*
 4 *agency research program in Antarctica, whether or*
 5 *not conducted by a Federal agency; and*

6 (B) *activities that may have a “significant” im-*
 7 *pact, within the meaning of section 102(2)(C) of the*
 8 *National Environmental Policy Act (42 U.S.C.*
 9 *4332(2)(C)), are deemed to fall within the category of*
 10 *activities that are likely to have “more than a minor*
 11 *or transitory impact”.*

12 (b) *NONGOVERNMENTAL ACTIVITIES.—(1) The Sec-*
 13 *retary shall, within 24 months after the date of enactment*
 14 *of this Act, promulgate regulations to provide for—*

15 (A) *the environmental impact assessment of non-*
 16 *governmental activities, including tourism, for which*
 17 *the United States is required to give advance notice*
 18 *under paragraph 5 of Article VII of the Treaty; and*

19 (B) *coordination of the review of information re-*
 20 *garding environmental impact assessment received*
 21 *from other parties under the Protocol.*

22 (2) *Such regulations shall be consistent with the provi-*
 23 *sions of Annex I to the Protocol.*

24 (c) *DECISION TO PROCEED.—(1) No decision shall be*
 25 *taken to proceed with an activity for which a comprehensive*

1 *environmental evaluation is prepared under this section*
2 *unless there has been an opportunity for consideration of*
3 *the draft comprehensive environmental evaluation at an*
4 *Antarctic Treaty Consultative Meeting, provided that no de-*
5 *cision to proceed with a proposed activity shall be delayed*
6 *through the operation of this subsection for more than 15*
7 *months from the date of circulation of the draft comprehen-*
8 *sive environmental evaluation.*

9 (2) *The Secretary of State shall circulate the final com-*
10 *prehensive environmental evaluation, in accordance with*
11 *Article 3(6) of Annex I to the Protocol, at least 60 days*
12 *before the commencement of the activity in Antarctica.*

13 (d) *CASES OF EMERGENCY.—The requirements set out*
14 *in this section, and in regulations promulgated under it,*
15 *shall not apply in cases of emergency relating to the safety*
16 *of human life or of ships, aircraft, or equipment and facili-*
17 *ties of high value, or the protection of the environment,*
18 *which require an activity to be undertaken without fulfill-*
19 *ing these requirements.*

20 (e) *JUDICIAL REVIEW.—Agency compliance with sub-*
21 *section (a) of this section shall be reviewable under chapter*
22 *7 of title 5, United States Code.*

23 (f) *REPORTING.—The Secretary of State and the Ad-*
24 *ministrator shall report annually to the Congress regarding*
25 *implementation of this section. Their reports shall include*

1 *information provided under Article 6 of Annex I to the Pro-*
 2 *TOCOL, copies of all comprehensive environmental evaluations*
 3 *circulated and all public comments received.*

4 (g) *EXCLUSIVE MECHANISM.*—*Notwithstanding any*
 5 *other provision of law, the requirements of the National En-*
 6 *vironmental Policy Act as specified in this section shall*
 7 *constitute the sole and exclusive statutory obligations of the*
 8 *Federal agencies with regard to assessing the environmental*
 9 *impacts of proposed Federal activities occurring in Antarc-*
 10 *tica.*

11 (h) *DECISIONS ON PERMIT APPLICATIONS.*—*The pro-*
 12 *visions of this section requiring environmental impact as-*
 13 *sessments (including initial environmental evaluations and*
 14 *comprehensive environmental evaluations) shall not apply*
 15 *to permitting decisions under section 6.*

16 **SEC. 9. MONITORING.**

17 *The Director, with the concurrence of the Secretary,*
 18 *shall promulgate such regulations as are necessary and ap-*
 19 *propriate, in accordance with Article 8 of and Annex I to*
 20 *the Protocol, to provide for—*

21 (1) *procedures to assess and verify the impact*
 22 *over time of any activity that proceeds following the*
 23 *completion of a comprehensive environmental evalua-*
 24 *tion;*

1 (2) *procedures to assess and verify the impact*
 2 *over time of activities that proceed after a determina-*
 3 *tion that they are likely to have no more than a*
 4 *minor or transitory impact;*

5 (3) *acquisition of information useful for mini-*
 6 *mizing or mitigating any impact identified under*
 7 *paragraph (1) or (2) and information on the need for*
 8 *suspension, cancellation, or modification of an activ-*
 9 *ity that is likely to cause more than a minor or tran-*
 10 *sitory impact; and*

11 (4) *procedures to assess and verify the impact of*
 12 *nongovernmental activities and compliance with im-*
 13 *pact assessment requirements of nongovernmental op-*
 14 *erations.*

15 **SEC. 10. AMENDMENTS TO ACT TO PREVENT POLLUTION**
 16 **FROM SHIPS.**

17 (a) *DEFINITIONS.*—Section 2(a) of the Act to Prevent
 18 *Pollution from Ships (33 U.S.C. 1901(a)) is amended—*

19 (1) *in paragraph (8) by striking “and” at the*
 20 *end;*

21 (2) *in paragraph (9) by striking the period and*
 22 *inserting a semicolon; and*

23 (3) *by adding at the end the following new para-*
 24 *graphs:*

1 “(10) ‘Antarctica’ means the area south of 60 de-
2 grees south latitude, including all ice shelves; and

3 “(11) ‘Antarctic Protocol’ means the Protocol on
4 Environmental Protection to the Antarctic Treaty,
5 signed October 4, 1991, in Madrid, and all annexes
6 thereto, and includes any future amendments thereto
7 which have entered into force.”.

8 (b) *APPLICATION OF ANNEX IV OF PROTOCOL.*—Sec-
9 tion 2 of the Act to Prevent Pollution from Ships (33 U.S.C.
10 1901) is amended by adding at the end the following new
11 subsection:

12 “(c) For the purposes of this Act, the requirements of
13 Annex IV to the Antarctic Protocol shall apply in Antarc-
14 tica to all vessels over which the United States has jurisdic-
15 tion, except for vessels listed in section 3(b) of this Act.”.

16 (c) *ADMINISTRATION.*—Section 4(a) of the Act to Pre-
17 vent Pollution from Ships (33 U.S.C. 1903(a)) is amended
18 by inserting in the first sentence “; Annex IV to the Ant-
19 arctic Protocol,” after “the MARPOL Protocol”.

20 (d) *REGULATIONS.*—Section 4(b)(1) of the Act to Pre-
21 vent Pollution from Ships (33 U.S.C. 1903(b)(1)) is amend-
22 ed by inserting “; Annex IV to the Antarctic Protocol,” after
23 “the MARPOL Protocol”.

24 (e) *VIOLATIONS.*—(1) Section 8(a) of the Act to Pre-
25 vent Pollution from Ships (33 U.S.C. 1907(a)) is amended

1 *by inserting in the first sentence “Annex IV to the Antarctic*
 2 *Protocol,” after “the MARPOL Protocol,”.*

3 (2) *Section 8(b) of the Act to Prevent Pollution from*
 4 *Ships (33 U.S.C. 1907(b)) is amended by striking the fourth*
 5 *and fifth sentences and inserting the following: “With re-*
 6 *spect to the MARPOL Protocol, upon completion of the in-*
 7 *vestigation, the Secretary shall take the action required by*
 8 *the MARPOL Protocol and whatever further actions the*
 9 *Secretary considers appropriate under the circumstances.*
 10 *If the initial evidence was provided by a party to the*
 11 *MARPOL Protocol, the Secretary, acting through the Sec-*
 12 *retary of State, shall inform that party of the action taken*
 13 *or proposed. With respect to Annex IV to the Antarctic Pro-*
 14 *tol, upon completion of the investigation, the Secretary*
 15 *shall take any actions required by the Antarctic Protocol*
 16 *and whatever further actions the Secretary considers appro-*
 17 *priate under the circumstances.”.*

18 (f) *PENALTIES.—Section 9 of the Act to Prevent Pollu-*
 19 *tion from Ships (33 U.S.C. 1908) is amended—*

20 (1) *in subsection (a) by inserting “Annex IV to*
 21 *the Antarctic Protocol,” after “the MARPOL Proto-*
 22 *col,”;*

23 (2) *in subsection (b) by inserting “Annex IV to*
 24 *the Antarctic Protocol,” after “the MARPOL Proto-*
 25 *col,” each place it appears; and*

1 (3) in subsection (d) by inserting “Annex IV to
2 the Antarctic Protocol,” after “the MARPOL Proto-
3 col,”.

4 **SEC. 11. REPRESENTATIVE TO COMMITTEE FOR ENVIRON-**
5 **MENTAL PROTECTION.**

6 (a) *DESIGNATION*.—The Secretary of State, with the
7 concurrence of the Director, Administrator, and the Sec-
8 retary, shall designate an officer or employee of the United
9 States to be the United States representative to the Commit-
10 tee for Environmental Protection.

11 (b) *TECHNICAL QUALIFICATIONS*.—The officer or em-
12 ployee designated shall have the technical qualifications
13 necessary to serve in this capacity.

14 (c) *COMPENSATION*.—The United States representative
15 shall receive no additional compensation by reason of serv-
16 ice as such representative.

17 **SEC. 12. OVERSIGHT.**

18 (a) *REPORT AND ON-SITE INSPECTIONS*.—(1) The
19 Secretary of State, in conjunction with the Administrator
20 and the Secretary, shall, at appropriate intervals of between
21 2 and 5 years, conduct an inspection of the United States
22 Antarctic Program, including on-site inspections of sta-
23 tions, field camps, and operations, and review of any other
24 relevant information, including information received from
25 the Director, with a view to examining the overall compli-

1 *ance of the United States Antarctic Program with this Act*
2 *and the Protocol.*

3 (2) *The inspection of the United States Antarctic Pro-*
4 *gram shall be conducted by a team designated by the Sec-*
5 *retary of State, the Administrator, and the Secretary. The*
6 *team shall comprise no more members than are necessary*
7 *and appropriate to carry out its mandate, and shall include*
8 *technically qualified experts, both governmental and non-*
9 *governmental.*

10 (3) *The National Science Foundation shall provide all*
11 *transportation and logistical support necessary to allow the*
12 *team to conduct the on-site inspections in Antarctica, and*
13 *shall cooperate to the fullest extent possible in meeting re-*
14 *quests for documents, other information, and assistance nec-*
15 *essary for the inspection team to carry out its work. The*
16 *costs of transportation to and from Antarctica shall be*
17 *borne by the Department of State, the Environmental Pro-*
18 *tection Agency, and the Department of Commerce.*

19 (4) *The inspection team shall prepare a draft report*
20 *which documents its findings on the compliance of the*
21 *United States Antarctic Program with the provisions of this*
22 *Act and the Protocol, shall specify any examples of failures*
23 *of compliance, and shall make recommendations. The in-*
24 *spection team shall provide the draft report to the Director*
25 *for review and comment for a period not to exceed 120 days.*

1 (5) *The final report of the inspection team, including*
2 *any comments by the Director, shall promptly be made pub-*
3 *lic. The Director shall publish notice of the report and the*
4 *response in the Federal Register.*

5 (b) *REPORT AND REVIEW OF UNITED STATES ANT-*
6 *ARCTIC PROGRAM.—(1) The Secretary of State shall con-*
7 *vene at least biannually an Antarctic Program Review*
8 *Group (hereafter in this section referred to as the “Review*
9 *Group”). The Review Group shall consist of—*

10 (A) *the Secretary of State, the Director, the Sec-*
11 *retary, the Administrator, and the Secretary of the*
12 *department in which the Coast Guard is operating, or*
13 *their designated representatives; and*

14 (B) *representatives from nongovernmental inter-*
15 *ests.*

16 (2) *The Review Group shall provide general oversight*
17 *and review of—*

18 (A) *proposals on the concept, location, design, or*
19 *other aspects of major United States logistic support*
20 *facilities in Antarctica, and proposals for significant*
21 *alterations to existing major United States facilities*
22 *in Antarctica;*

23 (B) *environmental monitoring activities in Ant-*
24 *arctica;*

1 (C) activities of Federal agencies and other per-
2 sons and vessels under the jurisdiction of the United
3 States, to ensure compliance with this Act and the
4 Protocol; and

5 (D) cooperation among Federal agencies in car-
6 rying out actions required by this Act.

7 (3) The Review Group shall submit to Congress an an-
8 nual report on implementation of this Act, including rec-
9 ommendations to improve interagency cooperation and
10 compliance with this Act and the Protocol.

11 **SEC. 13. STUDY OF ANTARCTIC TOURISM.**

12 The Department of State shall coordinate an inter-
13 agency study of tourism in Antarctica (including rec-
14 ommendations where appropriate) to determine whether or
15 not additional measures should be taken with respect to
16 Antarctic tourist activities. This study shall be completed
17 within 24 months after the date of enactment of this Act.

18 **SEC. 14. RULEMAKING AND PETITION FOR REGULATIONS.**

19 (a) *RULEMAKING.*—Promulgation of regulations under
20 this Act shall be in accordance with section 553 of title 5,
21 United States Code.

22 (b) *PETITION FOR REGULATIONS.*—Any person may
23 petition the implementing agency for the promulgation,
24 amendment, or repeal of any regulation under this Act
25 within its authority. Within 180 days of receipt of such

1 *a petition, the implementing agency shall grant or deny*
 2 *the petition. If the petition is denied, the implementing*
 3 *agency shall provide notice of such denial and the reasons*
 4 *therefor. If the petition is granted, the final regulations*
 5 *shall be promulgated within 24 months after the granting*
 6 *of the petition.*

7 **SEC. 15. CITIZEN SUITS.**

8 *(a) AUTHORITY TO BRING CIVIL ACTIONS.—Except as*
 9 *provided in subsections (c) and (d), any person may com-*
 10 *mence a civil action on that person's own behalf—*

11 *(1) against any person (including the United*
 12 *States and any other governmental instrumentality*
 13 *or agency, to the extent permitted by the eleventh*
 14 *amendment to the Constitution) who is alleged to*
 15 *have committed an act prohibited under section 5 of*
 16 *this Act or section 306 of the Antarctic Marine Living*
 17 *Resources Convention Act of 1984 (16 U.S.C. 2435);*
 18 *or*

19 *(2) against the Director, the Secretary, the Ad-*
 20 *ministrator, or the Secretary of the department in*
 21 *which the Coast Guard is operating, where there is al-*
 22 *leged a failure of the Director, the Secretary, the Ad-*
 23 *ministrator, or the Secretary of the department in*
 24 *which the Coast Guard is operating to perform any*
 25 *act or duty under this Act or the Antarctic Marine*

1 *Living Resources Convention Act of 1984 which is not*
2 *discretionary with the Director, the Secretary, the Ad-*
3 *ministrator, or the Secretary of the department in*
4 *which the Coast Guard is operating.*

5 (b) *RELIEF.*—*The appropriate district court of the*
6 *United States shall have jurisdiction in actions brought*
7 *under subsection (a)(1) to enforce the prohibition concerned,*
8 *to order such action as may be necessary to correct the vio-*
9 *lation, and to impose upon any person (other than an offi-*
10 *cer or employee of the Federal Government acting in his*
11 *or her official capacity, or any department, agency, or other*
12 *instrumentality of the Federal Government) any civil pen-*
13 *alty provided for the violation. The appropriate district*
14 *court shall have jurisdiction in actions brought under sub-*
15 *section (a)(2) to order the Director, the Secretary, the Ad-*
16 *ministrator, or the Secretary of the department in which*
17 *the Coast Guard is operating to perform the act or duty*
18 *concerned.*

19 (c) *RULES APPLICABLE TO SUBSECTION (a)(1) AC-*
20 *TIONS.*—*(1) No action may be commenced under subsection*
21 *(a)(1) before 60 days after the plaintiff has given notice*
22 *of the alleged violation to each of the following:*

23 (A) *The Director, the Secretary, the Adminis-*
24 *trator, and the Secretary of the department in which*
25 *the Coast Guard is operating.*

1 (B) *Any alleged violator of the prohibition.*

2 *Notice under this paragraph shall be given in such manner*
3 *as the Director shall prescribe by regulation.*

4 (2) *No action may be commenced under subsection*
5 *(a)(1) if the Director, the Secretary, the Administrator, or*
6 *the Secretary of the department in which the Coast Guard*
7 *is operating has commenced and is diligently pursuing an*
8 *action under this Act or the Antarctic Marine Living Re-*
9 *sources Convention Act of 1984 to require compliance with*
10 *the prohibition concerned.*

11 (d) *RULES APPLICABLE TO SUBSECTION (a)(2) AC-*
12 *TIONS.—No action may be commenced under subsection*
13 *(a)(2) before the 60th day following the date on which the*
14 *plaintiff gives notice to the Director, the Secretary, the Ad-*
15 *ministrator, or the Secretary of the department in which*
16 *the Coast Guard is operating that the plaintiff will com-*
17 *mence such action.*

18 (e) *INTERVENTION.—In any action under this section,*
19 *the United States if not a party may intervene as a matter*
20 *of right.*

21 (f) *OTHER RIGHTS.—This section does not restrict any*
22 *right that any person may have under any statute or com-*
23 *mon law to seek enforcement of any standard or limitation*
24 *or to seek any other relief.*

1 **SEC. 16. ADMINISTRATIVE ENFORCEMENT.**

2 (a) ADMINISTRATIVE COMPLIANCE ORDERS.—(1)
3 Whenever, on the basis of any information, the implement-
4 ing agency determines that any person has violated or is
5 in violation of any requirement of this Act, or any permit
6 issued or regulation promulgated under this Act, such agen-
7 cy may, after notice and opportunity for a hearing in ac-
8 cordance with subsection (c), issue an order requiring com-
9 pliance immediately or within a specified time period, or
10 both.

11 (2) Upon the failure of any person against whom a
12 compliance order is issued to take corrective action within
13 the time specified in the order, and after notice and an op-
14 portunity for a hearing in accordance with subsection (c),
15 the implementing agency may request the Attorney General
16 to institute a civil action in either the United States Dis-
17 trict Court for the District of Columbia or the United States
18 District Court for any district in which such person is
19 found, resides, or transacts business to enforce such order.

20 (b) ASSESSMENT OF PENALTIES.—(1) Any person who
21 is found by the implementing agency, after notice and op-
22 portunity for a hearing in accordance with subsection (c),
23 to have committed any act prohibited by section 5 shall be
24 liable to the United States for a civil penalty. The amount
25 of the civil penalty shall not exceed \$50,000 for each viola-
26 tion. Each day of a continuing violation shall constitute

1 *a separate offense. The amount of such civil penalty shall*
2 *be assessed by written notice. In determining the amount*
3 *of such penalty, the implementing agency shall take into*
4 *account the nature, circumstances, extent, and gravity of*
5 *the prohibited acts committed, and, with respect to the vio-*
6 *lator, the degree of culpability, any history of prior offenses,*
7 *any economic benefit derived from the violation, and such*
8 *other matters as justice may require, to the extent such in-*
9 *formation is reasonably available to the implementing*
10 *agency.*

11 *(2) The implementing agency may compromise, mod-*
12 *ify, or remit, with or without conditions, any civil penalty*
13 *which is subject to imposition or which has been imposed*
14 *under this section.*

15 *(c) HEARINGS.—Hearings for administrative actions*
16 *under this section shall be conducted in accordance with*
17 *section 554 of title 5, United States Code. For the purposes*
18 *of conducting any such hearing, the implementing agency*
19 *may issue subpoenas for the attendance and testimony of*
20 *witnesses and the production of relevant papers, books, and*
21 *documents, and may administer oaths. Witnesses sum-*
22 *moned shall be paid the same fees and mileage that are paid*
23 *to witnesses in the courts of the United States. In case of*
24 *contempt or refusal to obey a subpoena served upon any*
25 *person under this subsection, the district court of the United*

1 *States for any district in which such person is found, re-*
2 *sides, or transacts business, upon application by the United*
3 *States and after notice to such person, shall have jurisdic-*
4 *tion to issue an order requiring such person to appear and*
5 *give testimony before the implementing agency or to appear*
6 *and produce documents before the implementing agency, or*
7 *both, and any failure to obey such order of the court may*
8 *be punished by such court as a contempt thereof.*

9 (d) *REVIEW OF ADMINISTRATIVE ACTIONS.*—Any per-
10 *son against whom an administrative action has been taken*
11 *under this section may obtain review thereof in the United*
12 *States District Court for the District of Columbia by filing*
13 *a complaint in such court within 30 days from the date*
14 *of such order and by simultaneously sending a copy of such*
15 *complaint, by certified mail to the implementing agency,*
16 *the Attorney General, and the appropriate United States*
17 *Attorney. The implementing agency shall promptly file in*
18 *such court a certified copy of the record upon which the*
19 *violation was found or such penalty imposed, as provided*
20 *in section 2112 of title 28, United States Code. Such court*
21 *shall not set aside or remand such order unless there is not*
22 *substantial evidence in the record, taken as a whole, to sup-*
23 *port the finding of a violation or unless the implementing*
24 *agency's assessment of the penalty constitutes an abuse of*

1 *discretion. In any such proceeding, the United States may*
2 *seek to recover the civil penalty assessed under this section.*

3 (e) *ACTION UPON FAILURE TO PAY ASSESSMENT.—*
4 *If any person fails to pay an assessment of a civil penalty*
5 *after it has become a final and unappealable order, or after*
6 *the court has entered final judgment in favor of the imple-*
7 *menting agency, the implementing agency shall request the*
8 *Attorney General to bring a civil action to recover the*
9 *amount assessed in any appropriate district court of the*
10 *United States. In such action, the validity and appropriate-*
11 *ness of the final order imposing the civil penalty shall not*
12 *be subject to review.*

13 (f) *IN REM JURISDICTION.—*(1) *Any vessel, vehicle, or*
14 *aircraft (including its gear, furniture, appurtenances,*
15 *stores, and cargo) used in the commission of an act prohib-*
16 *ited by section 5 shall be liable in rem for any civil penalty*
17 *assessed for such violation under this section and may be*
18 *proceeded against in any district court of the United States*
19 *having jurisdiction thereof. Such penalty shall constitute a*
20 *maritime lien on such vessel which may be recovered in an*
21 *action in rem in the district court of the United States hav-*
22 *ing jurisdiction over the vessel.*

23 (2) *This subsection does not apply to a vessel, vehicle,*
24 *or aircraft owned or operated by the United States in non-*
25 *commercial service.*

1 **SEC. 17. CIVIL JUDICIAL ENFORCEMENT.**

2 (a) *CIVIL JUDICIAL ENFORCEMENT.*—Whenever, on the
3 basis of any information, the implementing agency deter-
4 mines that a person has violated or is in violation of any
5 requirement of this Act or any permit issued or regulation
6 promulgated under this Act, such agency may request the
7 Attorney General to commence a civil action in either the
8 United States District Court for the District of Columbia,
9 or the United States District Court for any district in
10 which such person is found, resides, or transacts business,
11 for appropriate relief, including a temporary or permanent
12 injunction, or to assess and recover a civil penalty not to
13 exceed \$50,000 per day for each past or ongoing violation,
14 or both. Each day of a continuing violation shall constitute
15 a separate offense.

16 (b) *FACTORS CONSIDERED IN DETERMINING*
17 *AMOUNT.*—In determining the amount of such penalty, the
18 court shall take into account the nature, circumstances, ex-
19 tent, and gravity of the prohibited acts committed, and,
20 with respect to the violator, the degree of culpability, any
21 history of prior offenses, any economic benefit derived from
22 the violation, and such other matters as justice may require.

23 (c) *IMMINENT HAZARD.*—Notwithstanding any other
24 provision of this Act, upon receipt of evidence that a per-
25 son's past or present activities may present an imminent
26 and substantial endangerment to human health or the envi-

1 *ronment in Antarctica, the Director, in consultation with*
2 *the Administrator, may request the Attorney General to*
3 *bring suit on behalf of the United States in either the*
4 *United States District Court for the District of Columbia,*
5 *or the United States District Court for any district in*
6 *which such person is found, resides, or transacts business,*
7 *against any person who has contributed to or who is con-*
8 *tributing to such activities to restrain such person from*
9 *such activities, to order such person to take other action*
10 *as may be necessary, or both. The Director, in consultation*
11 *with the Administrator, may also take other action under*
12 *this section, including but not limited to issuing such orders*
13 *as may be necessary to protect human health or the environ-*
14 *ment in Antarctica, and undertaking corrective action and*
15 *recovering costs of such action.*

16 **SEC. 18. CRIMINAL OFFENSES.**

17 (a) *OFFENSES.*—Any person who knowingly commits
18 any act prohibited by section 5 shall, upon conviction, be
19 punished by a fine of not more than \$50,000 per day of
20 the violation, or by imprisonment for not more than 5
21 years, or by both; except that if in the commission of any
22 such offense the person uses a dangerous weapon, engages
23 in conduct that causes bodily injury to any officer or em-
24 ployee of the United States carrying out the powers speci-
25 fied in section 20(b)(1), or places any such officer or em-

1 *ployee in fear of imminent bodily injury, the maximum fine*
2 *shall be as provided in title 18, United States Code, and*
3 *the maximum imprisonment shall be 10 years. Each day*
4 *of a continuing violation shall constitute a separate offense.*
5 *If a conviction of a person is for a violation committed after*
6 *a first conviction of such person under this subsection, the*
7 *maximum punishment shall be doubled with respect to both*
8 *fine and imprisonment.*

9 (b) *FEDERAL JURISDICTION.*—*There is Federal juris-*
10 *isdiction over any offense described in subsection (a).*

11 (c) *OTHER CRIMINAL OFFENSES.*—*Nothing in this Act*
12 *shall be construed to limit the jurisdiction of the United*
13 *States over other criminal offenses which may occur in Ant-*
14 *arctica.*

15 **SEC. 19. CIVIL FORFEITURE.**

16 (a) *IN GENERAL.*—*Any vessel, vehicle, or aircraft (in-*
17 *cluding its gear, furniture, appurtenances, stores and*
18 *cargo), and any guns, traps, and other equipment used, and*
19 *any animal, plant, Antarctic mineral resource (or the fair*
20 *market value thereof), or other property recovered, taken,*
21 *or possessed, in any manner, including any proceeds there-*
22 *of, in connection with or as a result of the commission of*
23 *any act prohibited by section 5 shall be subject to forfeiture*
24 *to the United States. All or part of such vessel, vehicle, or*
25 *aircraft may, and all of any such animal, plant, or Ant-*

1 *arctic mineral resource (or fair market value thereof) shall,*
 2 *be forfeited to the United States pursuant to a civil proceed-*
 3 *ing under this section.*

4 (b) *JURISDICTION OF DISTRICT COURTS.*—Any dis-
 5 trict court of the United States shall have jurisdiction, upon
 6 application by the Attorney General on behalf of the United
 7 States, to order any forfeiture authorized under subsection
 8 (a) and any action provided for under subsection (d).

9 (c) *JUDGMENT.*—If a judgment is entered for the
 10 United States in a civil forfeiture proceeding under this sec-
 11 tion, the Attorney General may seize any property or other
 12 interest declared forfeited to the United States, which has
 13 not previously been seized under this Act or for which secu-
 14 rity has not previously been obtained under subsection (d).
 15 The provisions of the customs laws relating to—

16 (1) *the seizure, forfeiture, and condemnation of*
 17 *property for violation of the customs law;*

18 (2) *the disposition of such property or the pro-*
 19 *ceeds from the sale thereof; and*

20 (3) *the remission or mitigation of any such for-*
 21 *feiture; shall apply to seizures and forfeitures in-*
 22 *curring, or alleged to have been incurred, under the*
 23 *provisions of this Act, unless such customs law provi-*
 24 *sions are inconsistent with the purposes, policy, and*
 25 *provisions of this Act, except that all powers, rights,*

1 *and duties conferred or imposed by the customs laws*
2 *upon any officer or employee of the Customs Services*
3 *shall, for the purposes of this Act, be exercised or per-*
4 *formed by the implementing agency.*

5 *(d) PROCEDURE.—(1) Any officer authorized to serve*
6 *any process in rem which is issued by a court under this*
7 *Act shall—*

8 *(A) stay the execution of such process, or*

9 *(B) discharge any property seized pursuant to*
10 *such process,*

11 *upon the receipt of a satisfactory bond or other security*
12 *from any person claiming such property. Such bond or*
13 *other security shall be conditioned upon such person (i) de-*
14 *livering such property to the appropriate court upon order*
15 *thereof, without any impairment of its value, or (ii) paying*
16 *the monetary value of such property pursuant to an order*
17 *of such court. Judgment shall be recoverable on such bond*
18 *or other security against both the principal and any sure-*
19 *ties in the event that any condition thereof is breached, as*
20 *determined by such court. Nothing in this paragraph may*
21 *be construed to require the implementing agency, except in*
22 *such agency's discretion or pursuant to the order of a court,*
23 *to release on bond any seized property or the proceeds from*
24 *the sale thereof.*

1 (2) *Except as provided in subsection (e), any property*
2 *seized under this Act may be sold, subject to regulations*
3 *promulgated by the implementing agency, for not less than*
4 *the fair market value thereof. The proceeds of any such sale*
5 *shall be deposited with such court pending the disposition*
6 *of the matter involved.*

7 (e) *DISPOSAL.—Notwithstanding any other provision*
8 *of law, upon the forfeiture to the United States of any prop-*
9 *erty or item described in subsection (a), or upon the aban-*
10 *donment or waiver of any claim to any such property or*
11 *item, it shall be disposed of by the implementing agency*
12 *in such manner (including but not limited to loan, sale,*
13 *gift, or destruction), consistent with the purposes of the Act,*
14 *as may be prescribed by regulation; except that no native*
15 *mammal, native bird, or native plant may be disposed of*
16 *by sale to the public.*

17 (f) *APPLICABILITY.—This section does not apply to a*
18 *vessel, vehicle, or aircraft owned or operated by the United*
19 *States in noncommercial service.*

20 **SEC. 20. POWERS OF AUTHORIZED ENFORCEMENT OFFI-**
21 **CERS AND EMPLOYEES.**

22 (a) *GENERAL RESPONSIBILITY.—The provisions of the*
23 *Act and of any regulation promulgated or permit issued*
24 *under this Act shall be enforced by the authorized officers*
25 *or employees designated by the Director, the Secretary, the*

1 Administrator, the Secretary of the Treasury, the Secretary
2 of the department in which the Coast Guard is operating,
3 or the Secretary of State. Each such agency may by agree-
4 ment, on a reimbursable basis or otherwise, utilize the per-
5 sonnel, services, equipment (including aircraft and vessels),
6 and facilities of any other department or agency of the
7 United States in the performance of such duties.

8 (b) *SPECIFIC POWERS.*—Any officer or employee of the
9 United States who is authorized (by an enforcing agency,
10 or the head of any department or agency of the United
11 States which has entered into an agreement with an enforc-
12 ing agency under subsection (a)) to enforce the provisions
13 of this Act and of any regulation promulgated or permit
14 issued under this Act may—

15 (1) secure, execute, and serve any order, warrant,
16 subpoena, or other process, which is issued under the
17 authority of the United States or by any court of
18 competent jurisdiction;

19 (2) with or without a warrant or other process—

20 (A) search any person, place, vessel, vehicle,
21 or aircraft subject to the provisions of this Act
22 where there are reasonable grounds to believe
23 that evidence of a violation of this Act will be
24 found;

1 (B) board, and search or inspect, any vessel,
2 vehicle, or aircraft subject to the provisions of
3 this Act;

4 (C) seize any evidence relating to a viola-
5 tion of this Act;

6 (D) seize any animal, plant, Antarctic min-
7 eral resource, prohibited product, or prohibited
8 waste, wherever such item may be found, which
9 is or has been recovered, taken, or possessed in
10 violation of this Act;

11 (E) seize any vessel, vehicle, or aircraft sub-
12 ject to the provisions of this Act (including its
13 gear, furniture, appurtenances, stores and
14 cargo), or any guns, traps, or other equipment
15 used in, or that reasonably appears to have been
16 used in, a violation of this Act;

17 (F) detain for inspection and inspect any
18 package, crate, or other container, including its
19 contents, and all accompanying documents, upon
20 importation into or exportation from the United
21 States; and

22 (G) arrest any person, if such officer or em-
23 ployee has reasonable cause to believe that such
24 person has committed an act prohibited by sec-
25 tion 5;

1 (3) offer and pay a reward to any person who
 2 furnishes information which leads to an arrest, con-
 3 viction, civil penalty assessment, permit sanction,
 4 compliance order, injunction, or forfeiture of prop-
 5 erty, for any violation of any provision of this Act;

6 (4) make inquiries, and administer to, or take
 7 from, any person an oath, affirmation, or affidavit,
 8 concerning any matter which is related to the enforce-
 9 ment of such a provision; and

10 (5) exercise any other authority which such offi-
 11 cer or employee is permitted by law to exercise.

12 **SEC. 21. MISCELLANEOUS ENFORCEMENT PROVISIONS.**

13 (a) *REGULATIONS.*—Each agency that has responsibil-
 14 ity for implementing and enforcing this Act may promul-
 15 gate such regulations as may be appropriate to enforce the
 16 provisions of this Act and of any regulations promulgated
 17 or permits issued under this Act, and charge reasonable fees
 18 for the expenses of the United States incurred in carrying
 19 out inspections and in transferring, boarding, handling, or
 20 storing animals, plants, Antarctic mineral resources, and
 21 any other property seized or forfeited under this Act.

22 (b) *BURDEN OF PROOF.*—In connection with any ac-
 23 tion alleging a violation of this Act, or implementing regu-
 24 lations, any person claiming the benefit of any exemption
 25 or permit shall have the burden of proving that the exemp-

1 *tion applies or that the permit is applicable, has been*
2 *granted, was valid, and was in force at the time of the al-*
3 *leged violation.*

4 (c) *STATUTE OF LIMITATIONS.*—*The statute of limita-*
5 *tions for initiating an administrative or judicial enforce-*
6 *ment proceeding shall begin to run at the time a violation*
7 *is discovered by any of the authorities listed in section 20*
8 *and shall run for a period of 5 years.*

9 (d) *ACTION AGAINST PERMIT.*—*If any person fails to*
10 *pay a civil penalty or criminal fine, the implementing*
11 *agency may suspend or deny any permit issued to or ap-*
12 *plied for by such person. The implementing agency shall*
13 *reinstate such permit or permit application upon payment*
14 *of the penalty or fine and interest thereon at the prevailing*
15 *rate.*

16 (e) *PAYMENTS OF STORAGE AND OTHER COSTS.*—*Not-*
17 *withstanding any other provision of law, the implementing*
18 *agency may retain sums it receives as fines, penalties, and*
19 *forfeitures of property for violations of any provision of this*
20 *Act, and shall pay from such sums—*

21 (1) *the reasonable and necessary costs it incurs*
22 *in connection with the seizure and forfeiture of prop-*
23 *erty under this Act, including in providing tem-*
24 *porary storage, care, and maintenance of such prop-*
25 *erty pending disposition of any civil or criminal pro-*

1 *ceeding alleging a violation of any provision of this*
2 *Act;*

3 *(2) to a qualifying person any reward offered*
4 *under section 20;*

5 *(3) any expenses directly related to investiga-*
6 *tions and civil and criminal enforcement proceedings,*
7 *including any necessary expenses for equipment,*
8 *training, travel, witnesses, and contracting services*
9 *directly related to such investigations or proceedings;*

10 *(4) any valid liens or mortgages against any*
11 *property that has been forfeited;*

12 *(5) claims of parties in interest to property dis-*
13 *posed of under section 612(b) of the Tariff Act of 1930*
14 *(19 U.S.C. 1612(b)) or under other provision of the*
15 *customs laws, as made applicable by this Act to sei-*
16 *zures under this Act, in amounts determined by the*
17 *implementing agency to be applicable to such claims*
18 *at the time of seizure; and*

19 *(6) reimbursement to any agency for services*
20 *performed, or personnel, equipment, or facilities uti-*
21 *lized, under any agreement entered into under section*
22 *20, or any similar agreement authorized by law.*

23 *(f) PROCEEDINGS UNDER OTHER LAWS.—Legal pro-*
24 *ceedings brought under any section of this Act with respect*
25 *to any act shall not be deemed to preclude proceedings with*

1 *respect to such act under any other provision of this Act*
 2 *or any other law.*

3 (g) *INFORMATION GATHERING AUTHORITY.*—*For the*
 4 *purposes of enforcing the provisions of this Act, or any per-*
 5 *mit issued or regulation promulgated under this Act—*

6 (1) *the implementing agency may require any*
 7 *person who has undertaken activities in Antarctica*
 8 *to—*

9 (A) *furnish information relating to such*
 10 *person's activities in Antarctica; or*

11 (B) *sample any wastes, emissions, dis-*
 12 *charges, or releases; and*

13 (2) *the implementing agency or its authorized*
 14 *representative may at reasonable times have access to*
 15 *and copy any records relating to activities in Antarc-*
 16 *tica, and sample any wastes, emissions, discharges, or*
 17 *releases that such person is required to sample under*
 18 *paragraph (1).*

19 ***SEC. 22. JUDICIAL ACTIONS.***

20 *A district court of the United States which has juris-*
 21 *isdiction over any case or controversy arising under the pro-*
 22 *visions of this Act may, at any time—*

23 (1) *enter restraining orders or prohibitions;*

24 (2) *issue warrants, process in rem, or other proc-*
 25 *ess;*

1 (3) *prescribe and accept satisfactory bonds or*
 2 *other security; and*

3 (4) *take such other actions as are in the interest*
 4 *of justice.*

5 **SEC. 23. FEDERAL AGENCY COOPERATION.**

6 (a) *IN GENERAL.*—Each Federal department or agen-
 7 *cy whose activities affect Antarctica shall utilize, to the*
 8 *maximum extent practicable, its authorities in furtherance*
 9 *of the purposes of this Act, and shall cooperate with the*
 10 *Director in carrying out the purposes of this Act.*

11 (b) *CONSULTATION ON CERTAIN REGULATIONS AND*
 12 *PERMITS.*—The Director shall consult with the Adminis-
 13 *trator with respect to enforcement of regulations promul-*
 14 *gated under section 7(e), and with respect to determining*
 15 *compliance with the terms and conditions of permits issued*
 16 *under section 6(g)(2).*

17 **SEC. 24. RELATIONSHIP TO EXISTING INTERNATIONAL**
 18 **AGREEMENTS, STATUTES, REGULATIONS,**
 19 **AND PERMITS.**

20 (a) *IN GENERAL.*—Nothing in this Act shall be con-
 21 *strued as contravening or superseding the provisions of any*
 22 *treaty or other international agreement, if such treaty or*
 23 *agreement is in force with respect to the United States on*
 24 *the date of enactment of this Act, or the provisions of any*
 25 *statute except as provided in subsections (b) and (c).*

1 (b) *RELATIONSHIP WITH DEEP SEABED HARD MIN-*
2 *ERAL RESOURCES ACT.*—For purposes of any Antarctic
3 mineral resource, the provisions of this Act prevail over any
4 inconsistent provision of the Deep Seabed Hard Mineral
5 Resources Act (30 U.S.C. 1401 et seq.).

6 (c) *REPEAL OF STATUTES.*—The Antarctic Conserva-
7 tion Act of 1978 (16 U.S.C. 2401 et seq.) and the Antarctic
8 Protection Act of 1990 (16 U.S.C. 2461 et seq.) are hereby
9 repealed.

10 (d) *SAVINGS PROVISIONS.*—(1) All regulations pro-
11 mulgated under the Antarctic Conservation Act of 1978 (16
12 U.S.C. 2401 et seq.) shall remain in effect until the Direc-
13 tor, the Secretary, the Administrator, the Secretary of the
14 department in which the Coast Guard is operating, or the
15 Secretary of State, as the case may be, promulgates super-
16 seding regulations under sections 7, 8, or 9.

17 (2) All permits issued under the Antarctic Conserva-
18 tion Act of 1978 (16 U.S.C. 2401 et seq.) shall remain in
19 effect until they expire in accordance with the terms of those
20 permits.

21 **SEC. 25. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated \$5,000,000 for
23 each of the fiscal years 1994, 1995, and 1996 for the purpose
24 of carrying out this Act.



S 1427 RS—1

S 1427 RS—2

S 1427 RS—3

S 1427 RS—4

S 1427 RS—5

S 1427 RS—6

S 1427 RS—7

S 1427 RS—8